

NORTH CAROLINA REGISTER

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April 1, 2022

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Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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NORTH CAROLINA REGISTER
Publication Schedule for January 2022 – December 2022

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
36:13	01/03/22	12/08/21	01/18/22	03/04/22	03/21/22	04/21/2022	05/01/22	09/30/22
36:14	01/18/22	12/22/21	02/02/22	03/21/22	04/20/22	05/19/2022	06/01/22	10/15/22
36:15	02/01/22	01/10/22	02/16/22	04/04/22	04/20/22	05/19/2022	06/01/22	10/29/22
36:16	02/15/22	01/25/22	03/02/22	04/18/22	04/20/22	05/19/2022	06/01/22	11/12/22
36:17	03/01/22	02/08/22	03/16/22	05/02/22	05/20/22	06/16/2022	07/01/22	11/26/22
36:18	03/15/22	02/22/22	03/30/22	05/16/22	05/20/22	06/16/2022	07/01/22	12/10/22
36:19	04/01/22	03/11/22	04/16/22	05/31/22	06/20/22	07/21/2022	08/01/22	12/27/22
36:20	04/18/22	03/25/22	05/03/22	06/17/22	06/20/22	07/21/2022	08/01/22	01/13/23
36:21	05/02/22	04/08/22	05/17/22	07/01/22	07/20/22	08/18/2022	09/01/22	01/27/23
36:22	05/16/22	04/25/22	05/31/22	07/15/22	07/20/22	08/18/2022	09/01/22	02/10/23
36:23	06/01/22	05/10/22	06/16/22	08/01/22	08/22/22	09/15/2022	10/01/22	02/26/23
36:24	06/15/22	05/24/22	06/30/22	08/15/22	08/22/22	09/15/2022	10/01/22	03/12/23
37:01	07/01/22	06/10/22	07/16/22	08/30/22	09/20/22	10/20/2022	11/01/22	03/28/23
37:02	07/15/22	06/23/22	07/30/22	09/13/22	09/20/22	10/20/2022	11/01/22	04/11/23
37:03	08/01/22	07/11/22	08/16/22	09/30/22	10/20/22	11/17/2022	12/01/22	04/28/23
37:04	08/15/22	07/25/22	08/30/22	10/14/22	10/20/22	11/17/2022	12/01/22	05/12/23
37:05	09/01/22	08/11/22	09/16/22	10/31/22	11/21/22	12/15/2022	01/01/23	05/29/23
37:06	09/15/22	08/24/22	09/30/22	11/14/22	11/21/22	12/15/2022	01/01/23	06/12/23
37:07	10/03/22	09/12/22	10/18/22	12/02/22	12/20/22	01/19/2023	02/01/23	06/30/23
37:08	10/17/22	09/26/22	11/01/22	12/16/22	12/20/22	01/19/2023	02/01/23	07/14/23
37:09	11/01/22	10/11/22	11/16/22	01/03/23	01/20/23	02/16/2023	03/01/23	07/29/23
37:10	11/15/22	10/24/22	11/30/22	01/17/23	01/20/23	02/16/2023	03/01/23	08/12/23
37:11	12/01/22	11/07/22	12/16/22	01/30/23	02/20/23	03/16/2023	04/01/23	08/28/23
37:12	12/15/22	11/22/22	12/30/22	02/13/23	02/20/23	03/16/2023	04/01/23	09/11/23

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.



State of North Carolina

ROY COOPER
GOVERNOR

February 28, 2022

EXECUTIVE ORDER NO. 251

NORTH CAROLINA RESPONSE TO AND CONDEMNATION OF RUSSIAN INVASION OF UKRAINE

WHEREAS, Russia has, without justification or provocation, attacked and invaded Ukraine, a sovereign democracy; and

WHEREAS, Russia's actions have inflicted and will continue to inflict significant harm and suffering on the people of Ukraine; and

WHEREAS, Russia's actions severely undermine global peace and stability; and

WHEREAS, North Carolina is home to thousands of Ukrainian Americans; and

WHEREAS, Russia's dangerous actions have already led to a significant additional deployment of American troops, including thousands deployed from North Carolina; and

WHEREAS, North Carolina stands with Ukraine and strongly condemns Russia's actions; and

WHEREAS, the United States government has strongly condemned Russia's actions and enacted significant economic sanctions against Russia and Russian-owned businesses in response to Russia's actions; and

WHEREAS, North Carolina is a significant purchaser of goods and services; and

WHEREAS, North Carolina seeks to ensure that its actions do not aid Russia, whether directly or indirectly; and

WHEREAS, the Governor is the state's chief executive and is responsible for the supervision of State agencies; *see* N.C. Const. art III, §§ 1, 5(4), (10); N.C. Gen. Stat. §§ 143B-1 *et seq.*, 147-12.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Definitions

a. "Affected State Entity" means all state government agencies and departments over which the Governor has executive authority, as well as all other state entities for which the Governor appoints the chief executive or a majority of the board members.

b. "Russian Entity" means any corporation, company, or other entity that is headquartered in Russia or has its principal place of business in Russia, including any wholly-owned or majority-owned subsidiaries of such corporations, companies, or entities.

Section 2. Review of Existing Contracts and Operations

All Affected State Entities shall, as soon as practicable, review all existing contracts and operations to determine whether they directly benefit any Russian Entities. To the extent that Affected State Entities identify contracts or operations that directly benefit Russian Entities, the Affected State Entity is directed to take all reasonable steps to terminate that contract or operation. This direction includes, but is not limited to, the following:

- **Alcohol Sales:** The North Carolina Alcoholic Beverage Control Commission is directed to review its list of approved products for any produced by Russian Entities and to suspend the approval of such products as quickly as practicable.
- **Purchase & Contract:** The North Carolina Department of Administration, Division of Purchase & Contract, is directed to undertake an immediate review of all existing state contracts for goods and services to determine whether a Russian Entity is a party to the contract, and to work with Affected State Entities to terminate any such contracts as quickly as practicable if they are identified.

Section 3. Prohibition on Future Contracts with Russian Entities

All Affected State Entities are directed to refrain from entering into new contracts with Russian Entities. Affected State Entities may enter into such contracts only if the head of the Affected State Entity determines in writing that the contract is necessary for the Affected State Entity to perform its work for the State and there are no suitable alternatives.

Section 4. Other State Entities and Local Governments

All other state entities and local governments in North Carolina are strongly encouraged to adopt similar policies to ensure that public dollars and operations do not directly benefit Russian Entities.

Section 5. Miscellaneous

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof.

If any provision of this Executive Order or its application to any person, agency, or entity is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order that can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 6. Effective Date

This Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 28th day of February in the year of our Lord two thousand and twenty-two.


Roy Cooper
Governor

ATTEST:


Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

February 28, 2022

EXECUTIVE ORDER NO. 252

EXTENDING TRANSPORTATION-RELATED PROVISIONS IN PREVIOUS EXECUTIVE ORDERS

WHEREAS, on March 10, 2020, the undersigned issued Exec. Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purposes of protecting the health, safety and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, 180-181, 183-185, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224-225, 228-232, 234, 236, 238-240 and 244-245; and

WHEREAS, more than two million five hundred eighty-nine thousand (2,589,000) people in North Carolina have had COVID-19, and over twenty-two thousand five hundred seventy (22,570) people in North Carolina have died from the disease; and

WHEREAS, COVID-19 continues to infect thousands of North Carolinians every day, and a State of Emergency remains in place for the purpose of maintaining the state's ability to meet challenges presented by COVID-19; and

WHEREAS, the undersigned has taken a science and data-driven approach to implementing public health measures to curb the spread of the virus and to advance the state's economy in a safe and effective way, which is in the best interests of all North Carolinians; and

WHEREAS, as COVID-19 has continued to be spread from person to person across the United States and world, variants (genetically distinct strains) of COVID-19 have developed; and

WHEREAS, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum gas to residential and commercial establishments is an essential need of the public and any interruption in the delivery of those fuels threatens the public welfare; and

WHEREAS, Executive Order No. 116 included certain suspensions of Federal Motor Carrier Safety Regulations; and

WHEREAS, Executive Order No. 119, issued on March 20, 2020, facilitated critical motor vehicle operations; and

WHEREAS, on February 26, 2022, the Federal Motor Carrier Safety Administration ("FMCSA") issued Extension and Amendment of Emergency Declaration No. 2020-002, effective through May 31, 2022, to provide regulatory relief for commercial motor vehicle operations that provide direct assistance in support of emergency relief efforts related to COVID-19; and

WHEREAS, the undersigned has determined that provisions in Executive Order Nos. 116 and 119 need to remain in place to allow for the continued expedited movement of vehicles in the state; and

WHEREAS, Executive Order No. 239, issued on November 29, 2021, extended the transportation-related provisions in Executive Order Nos. 116, 119, 133, 140, 146, 150, 157, 164, 192, 197, 217, 230 and 239; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, N.C. Gen. Stat. § 166A-19.70(b), allows for the undersigned to declare by executive order that the health, safety, or economic well-being of persons or property in this state require that the maximum hours of service prescribed by the Department of Public Safety ("DPS") pursuant to N.C. Gen. Stat. § 20-381 and similar rules be waived for persons transporting essentials or assisting in the restoration of utility services.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Extensions

For the reasons and pursuant to the authority set forth above and set forth in the relevant Executive Orders referenced below, the undersigned orders as follows:

A. Executive Order Nos. 116 and 119.

1. Sections 5 and 5.5 of Executive Order No. 119 (which were extended by Executive Order Nos. 133, 140, 146, 150, 157, 164, 197, 217, 230, 239 and reissued in Executive Order No. 192) are hereby extended through the end of the calendar day on May 31, 2022.
2. Section 5 of Executive Order No. 116 (which was amended by Section 6 of Executive Order No. 119, Section 1 of Executive Order No. 146, Section 1 of Executive Order No. 150, Section 1 of Executive Order No. 157, and Section 1 of Executive Order No. 192, and extended by Executive Order Nos. 133, 140, 146, 150, 157, 164, 197, 217, 230 and 239, and reissued in Executive Order No. 192) is extended pursuant to N.C. Gen. Stat. § 166A-19.70(b) through the end of the calendar day on May 31, 2022.

Section 5 of Executive Order No. 116 currently reads as follows:

In order to ensure adequacy and location of supplies and resources to respond to COVID-19, DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381 subject to the restrictions and limitations in this Executive Order, if the driver is transporting medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19; vaccines, constituent products, and medical supplies and equipment including ancillary supplies/kits for the administration of vaccines, related to the prevention of COVID-19; and supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19, such as masks, gloves, hand sanitizer, soaps and disinfectants, essential fuels such as fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum gas to residential and commercial establishments; and food, water, livestock, poultry, feed for livestock and poultry and other supplies and equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19. These maximum hours may be waived through the duration of the State of Emergency or until further notice. Direct assistance does not include routine commercial deliveries, including mixed loads with a nominal quantity of qualifying emergency relief added to obtain the benefits of this Executive Order.

3. The first sentence of Section 8 of Executive Order No. 119 is amended to read:

"This Executive Order is effective immediately and shall remain in effect until the end of the calendar day on May 31, 2022, or until rescinded or superseded by another applicable Executive Order."

B. Miscellaneous provisions. For avoidance of doubt:

1. Future Executive Orders may extend the term of the restrictions, delegations, and requirements listed above.
2. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

Section 2. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 3. Effective Date

This Executive Order is effective immediately. This Executive Order shall remain in effect through the end of the calendar day on May 31, 2022, unless repealed, replaced, or rescinded by

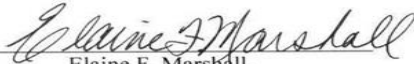
another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 28th day of February in the year of our Lord two thousand and twenty-two.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

March 1, 2022

EXECUTIVE ORDER NO. 253

EXTENDING AND AMENDING THE VACCINE VERIFICATION POLICY FOR CABINET AGENCY EMPLOYEES TO REFLECT IMPROVING COVID-19 METRICS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, on February 18, 2022, the President indicated that the national emergency relating to COVID-19 would remain in effect due to the virus's persistent threat to public health; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, 180-181, 183-185, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224-225, 228-232, 234, 236, 238-240, 244-245, and 252; and

WHEREAS, more than two million five hundred ninety thousand (2,590,000) people in North Carolina have had COVID-19, and over twenty-two thousand six hundred (22,600) people in North Carolina have died from the disease; and

WHEREAS, COVID-19 continues to infect thousands of North Carolinians every day, and a State of Emergency remains in place for the purpose of maintaining the state's ability to meet challenges presented by COVID-19; and

WHEREAS, the State of Emergency allows North Carolina to provide increased regulatory flexibility to the North Carolina Department of Health and Human Services ("NCDHHS") and health care facilities, which allows health care providers to expand their capacity to treat patients and assist with vaccination efforts and respond to any spikes in the spread of the disease; and

WHEREAS, the undersigned has taken a science and data-driven approach to implementing public health measures to curb the spread of the virus and to advance the state's economy in a safe and effective way, which is in the best interests of all North Carolinians; and

Measures to Protect Against COVID-19

WHEREAS, unvaccinated people pose a risk not only to themselves, but to people who are immunocompromised and to children who are too young to be vaccinated; and

WHEREAS, it remains critical that North Carolinians exercise personal responsibility to protect themselves and their friends and neighbors from the spread of COVID-19, including by obtaining the free and widely available COVID-19 vaccines; and

WHEREAS, the undersigned and the Secretary of NCDHHS have implemented measures to ensure that COVID-19 testing and vaccination administration are accessible to as many North Carolinians as possible, and the undersigned has determined that these measures should continue; and

WHEREAS, on August 13, 2021, at the undersigned's direction under Executive Order No. 224, the Office of State Human Resources ("OSHR") issued a policy (as such Policy may be amended, the "Policy") on face coverings and on weekly testing of employees who are not yet fully vaccinated; and

WHEREAS, the Policy requires, among other measures, that Cabinet agency workers show they are either fully vaccinated, or that they have been recently tested for COVID-19; and

WHEREAS, Executive Order No. 224 instructed OSHR to amend the Policy as needed, and it was updated on August 27, 2021; and

WHEREAS, since the Policy's adoption, the percentage of state employees who are fully vaccinated has increased by more than twelve percent (12%); in addition, the weekly testing component of the Policy has succeeded in identifying over four thousand cases of COVID-19 among unvaccinated Cabinet agency workers; and

WHEREAS, the undersigned, in consultation with NCDHHS, has determined that the requirements of the Policy directing vaccination or regular testing in lieu of vaccination should remain in place to protect the health and safety of state workers and guests of state facilities; and

WHEREAS, the undersigned encourages public and private employers to adopt the same protections for state employees and the public; and

Current Metrics; Updates to the Policy

WHEREAS, as of the date of this Executive Order, COVID-19 metrics continue to improve across the state; and

WHEREAS, specifically, the daily number of newly diagnosed cases, the number of COVID-19-associated hospitalizations, and the number of positive tests as a percentage of all tests, and the number of emergency room visits for COVID-19-like illnesses have all declined, relative to the most recent peak in January 2022; and

WHEREAS, North Carolinians now have a wider array of tools, compared to at the onset of the pandemic, to mitigate the spread of the virus, including vaccines and boosters and treatments for those with severe disease; and

WHEREAS, COVID-19 vaccines are widely available at no cost to all eligible North Carolinians age five (5) and older who wish to receive one, and all eligible North Carolinians are strongly encouraged to get vaccinated; and

WHEREAS, in light of improving trends and the availability of vaccines and treatment, NCDHHS recently announced that it will modify its public health guidance, effective March 7, 2022, on face coverings, among other public-health measures; and

WHEREAS, accordingly, the undersigned desires to direct OSHR to update the Policy to lift the requirement to wear face coverings, except in high-risk settings; and

WHEREAS, the undersigned has indicated that local governments and local school districts should consider moving to adopt mask-optional policies in low-risk settings; and

WHEREAS, public health experts advise that face coverings should continue to be worn by those who are at high-risk of severe illness, those who are not up-to-date on their vaccinations, and those who live in, work in, or visit certain high-risk settings, such as long term care facilities, correctional facilities, homeless shelters, and health care facilities; and

WHEREAS, accordingly, the undersigned desires to direct OSHR to update the Policy to enable the heads of Cabinet agencies to require face-coverings in those settings determined to be high-risk; and

WHEREAS, all Cabinet agency workers should feel welcome to continue to wear face coverings, even if no longer required to do so; and

WHEREAS, the Policy has also been issued under N.C. Gen. Stat. § 143B-10(j)(3), which is the statute empowering department heads and the Director of OSHR to issue agency policies which reflect internal management procedures within the department, and therefore, OSHR has the authority to modify, and may modify, the provisions of the Policy, in consultation with NCDHHS, not only during the pendency of this Executive Order, but also after this Executive Order's expiration or termination; and

WHEREAS, this Executive Order supersedes Executive Orders Nos. 224, 238 and 244; and

Statutory Authority and Determinations

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate gubernatorially vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses and limiting person-to-person contact, thus needed control cannot be imposed locally; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken

implementing steps under such ordinances or declarations, if enacted or declared, in order to effectuate control over the emergency that has arisen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments, and other places to and from which people may travel or at which they may congregate; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(1), when the undersigned imposes the prohibitions and restrictions enumerated in N.C. Gen. Stat. § 166A-19.31(b), the undersigned may amend or rescind the prohibitions and restrictions imposed by local authorities; and

WHEREAS, pursuant to Article III of the Constitution of North Carolina and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 147-12, the Governor has the authority and the duty to supervise the official conduct of all executive and ministerial officers; and

WHEREAS, pursuant to N.C. Gen. Stat. § 143B-10(j)(3), the head of each principal state department and the Director of OSHR may adopt policies, consistent with law and with rules established by the Governor and with rules of the State Human Resources Commission ("Commission"), which reflect internal management procedures within each department, including policies governing the conduct of employees of the department; and

WHEREAS, pursuant to N.C. Gen. Stat. § 126-4, the Commission shall establish state human resources policies and rules subject to approval of the Governor, and pursuant to this statute, the Commission has issued a Communicable Disease Emergency Policy and rules that require social distancing policies, including administrative and engineering controls, that shall be implemented immediately upon orders from the Governor.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. OSHR Shall Update the Policy on Face Coverings and on Vaccination or Testing.

As of the effective date of this Executive Order, this Executive Order supersedes Executive Orders No. 224, 238, and 244. For avoidance of doubt, this Executive Order is not retroactive and does not invalidate actions taken under Executive Orders Nos. 224, 238, 244, or the Policy.

OSHR shall continue to implement, and Cabinet agencies shall continue to follow, the Policy. For the version of the Policy effective March 7, 2022, OSHR is directed to:

- (a) Make face coverings generally optional in Cabinet agencies, but allow agency heads in their discretion to continue to require face coverings in settings that they determine to be high-risk to employees, the public, or others. Such places may include, but are not limited to, long term care facilities, correctional facilities, homeless shelters, and health care facilities.
- (b) Continue the vaccination-or-testing policy, while allowing at-home rapid tests to satisfy the Policy's testing requirement.

OSHR is delegated the authority to amend or rescind the Policy in the future based on changes in North Carolina COVID-19 conditions, the emergence of new variants, or scientific developments, and after consultation with the Office of the Governor and NCDHHS. Any such changes to the Policy may be made without amendment to this or any other Executive Order.

Section 2. Effect on Local Emergency Management Orders.

2.1. **Local Government Flexibility.** The impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. As such, counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in this Executive Order. To that end, nothing herein, except where specifically stated below in Subsection 2.2-2.4, is intended to limit or prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which impose greater restrictions or prohibitions to the extent authorized under North Carolina law.

2.2. **Local Restrictions Cannot Restrict State or Federal Government Operations.** Notwithstanding Subsection 2.1 above, no county or city ordinance or declaration shall have the effect of restricting or prohibiting governmental operations of the state or the United States.

2.3. **Local Restrictions Cannot Prevent COVID-19 Testing.** To ensure that COVID-19 testing is available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable testing, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 testing or would prevent or restrict businesses or operations from advertising COVID-19 testing services that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions, and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 testing sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.

2.4. **Local Restrictions Cannot Prevent COVID-19 Vaccine Administration.** To ensure that COVID-19 vaccines are available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable service, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 vaccines or would prevent or restrict businesses or operations from advertising COVID-19 vaccines that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 vaccination sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.

Section 3. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other

entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 4. Savings Clause.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 5. Distribution.

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 6. Enforcement.

- 6.1. Except where otherwise specified herein and pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.
- 6.2. A violation of Section 2 of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A. Local governments are specifically authorized and encouraged to adopt ordinances that provide law enforcement officials with flexibility to use civil, rather than criminal, penalties to enforce violations of this Executive Order. A violation of Section 1 of this Executive Order shall be enforceable only through disciplinary action for workers.
- 6.3. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

Section 7. Effective Date.

This Executive Order is effective March 1, 2022, at 5:00 pm. This Executive Order shall remain in effect through May 5, 2022, at 5:00 pm, unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order, provided that the termination of the State of Emergency declared in Executive Order No. 116 or the termination or expiration of this Executive Order shall not impact the continuation of the Policy directed in Section 1 herein and the direction to Cabinet agencies to follow the Policy.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 1st day of March in the year of our Lord two thousand and twenty-two.


Roy Cooper
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



**North Carolina Department of Labor
Division of Occupational Safety and Health
1101 Mail Service Center
Raleigh, NC 27699-1101**

(919) 707-7806

NOTICE OF AMENDMENT OF VERBATIM ADOPTION OF FEDERAL STANDARDS

In consideration of G.S. 150B-21.5(c) the Occupational Safety and Health Division of the Department of Labor hereby gives notice that:

- Rule changes have been submitted to update the *North Carolina Administrative Code* at 13 NCAC 07F .0101 to amend the occupational safety and health related provisions of Title 29 of the *Code of Federal Regulations* Parts 1910 promulgated as of December 21, 2021, except as specifically described, and
- The *North Carolina Administrative Code* at 13 NCAC 07A .0301 automatically adopts subsequent amendments to certain parts of the *Code of Federal Regulations*. Title 29, Part 1910—General Industry Standards does not automatically include subsequent amendments.

This update encompasses the following recent expiration:

- Occupational Safety and Health Standards, Healthcare Emergency Temporary Standard, 29 CFR § 1910 (86 FR 32376, June 21, 2021)

The Occupational Safety and Health Administration (OSHA) issued an emergency temporary standard (ETS), published in the Federal Register on June 21, 2021 (86 FR 32376). The ETS on Healthcare was adopted verbatim as a permanent rule, and was published in NC Register Volume 36, Issue 04. The ETS on Healthcare has now expired pursuant to 29 USC 655(c), which requires that a federal emergency temporary standard be effective until a permanent standard is promulgated, but the promulgation of the permanent standard shall be "no later than six months after the publication of the emergency standard" To date, federal OSHA has not promulgated a permanent standard to replace the ETS on Healthcare; therefore, the ETS on Healthcare expired effective December 21, 2021.

For additional information, please contact:

Bureau of Education, Training and Technical Assistance
Occupational Safety and Health Division
North Carolina Department of Labor
1101 Mail Service Center
Raleigh, North Carolina 27699-1101

For additional information regarding North Carolina's process of adopting federal OSHA Standards verbatim, please contact:

Jill F. Cramer, Agency Rulemaking Coordinator
North Carolina Department of Labor
Legal Affairs Division
1101 Mail Service Center
Raleigh, North Carolina 27699-1101

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to amend the rule cited as 02 NCAC 52B .0212.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm>

Proposed Effective Date: August 1, 2022

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Submit a written request by email to Rule-Making Coordinator, Anna Hayworth, at Anna.Hayworth@ncagr.gov.

Reason for Proposed Action: This rule is proposed to be amended to align with NC Wildlife Resources Commission requirements. The current rule suggests that coyotes may be imported with a permit. However, importation of coyotes are prohibited under NC Wildlife Resources Commission laws. Also, there is a provision added to provide notice that importers must comply with both NCDA&CS and NC Wildlife Resources Commission requirements. Also, currently, bison and other bovidae other than domestic cattle imported into the State of North Carolina do not require official identification under NCDA&CS rules. This rule is amended to comply with USDA's requirement, 9 CFR 86.1. The proposed amendments further include a requirement that elephants must have a valid health certificate when being imported and indicate its tuberculosis free test status.

Comments may be submitted to: Anna Hayworth, Rule-Making Coordinator, 1002 Mail Service Center, Raleigh, NC 27699; phone (984) 236-4509; email rulesreview@ncagr.gov

Comment period ends: May 31, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery

service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (>= \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 52 - VETERINARY

SUBCHAPTER 52B - ANIMAL DISEASE

SECTION .0200 - ADMISSION OF LIVESTOCK TO NORTH CAROLINA

02 NCAC 52B .0212 IMPORTATION REQUIREMENTS: WILD ANIMALS

(a) A person shall obtain a permit from the State Veterinarian before importing any of the following animals into this State:

- (1) Skunk;
- (2) Fox;
- (3) Raccoon;
- (4) Ringtail;
- (5) Bobcat (includes Lynx and other North and South American felines as cougars, jaguars, etc.);
- ~~(6) Coyote;~~
- ~~(7)(6)~~ Marten;
- ~~(8)(7)~~ Brushtail Possum (*Trichosurus vulpecula*).

(b) Permits for the importation into this State of any of the animals listed in Paragraph (a) of this Rule shall be issued only if the animal(s) will be used in a research institute, or for exhibition by a USDA licensed exhibitor, or organized entertainment as in zoos or circuses. Furthermore, permits for the importation of wild animals, as defined in G.S. 113-129, shall be issued only if the applicant shows compliance with applicable North Carolina Wildlife Resources Commission rules in 15A NCAC 10H .1400.

(c) Camelids, bison, and other bovidae other than domestic cattle may be imported into the State if accompanied by an official health certificate issued by a licensed, accredited veterinarian, as defined in 02 NCAC 52B .0401, which states that:

- (1) all animals six months of age or older have tested negative for brucellosis within 30 days prior to importation; and
- (2) all animals six months of age or older have tested negative for tuberculosis within 60 days prior to importation; and

- (3) the herd of origin has had no brucellosis or tuberculosis diagnosed within the past 12 months.

Additionally, all bison and other bovidae other than domestic cattle may be imported into the State only if officially identified in accordance with 9 CFR 86.1, which shall be incorporated by reference, including any subsequent amendments and editions, and can be obtained free of cost at https://www.ecfr.gov/cgi-bin/text-idx?SID&node=pt9.1.86&rgn=div5#se9.1.86_11. The requirements of this Paragraph shall not apply to camelids, llamas, vicunas, alpacas, and guanacos from other states that are tuberculosis Accredited-Free and brucellosis Certified-Free, when accompanied by an official health certificate.

(d) Any species or hybrid of a mammal not otherwise covered in the Administrative Code ~~that is found to exist in the wild or naturally occurs in the wild~~ must be accompanied by a valid certificate of veterinary inspection.

(e) Imported elephants shall be accompanied by an official health certificate issued by a licensed, accredited veterinarian, as defined in 02 NCAC 52B .0401, which states that "all animals have tested negative for tuberculosis within 365 days prior to importation."

Authority G.S. 106-317; 106-400.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to adopt the rule cited as 02 NCAC 52B .0214.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm>

Proposed Effective Date: August 1, 2022

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Submit a written request by email to Rule-Making Coordinator, Anna Hayworth, at Anna.Hayworth@ncagr.gov.*

Reason for Proposed Action: *The Board of Agriculture previously approved emergency and temporary rules governing rabbit importation. These rules are concerned with preventing the introduction of Rabbit Hemorrhagic Disease Virus - 2 into the State of North Carolina. The Board of Agriculture is now following through to make the current temporary rule on rabbit importation permanent with a few substantive changes. Specifically, the proposed permanent rule will expand the import requirements to cover rabbits and species in the order of Lagomorpha, including hares and pikas.*

Comments may be submitted to: Anna Hayworth, Rule-Making Coordinator, 1002 Mail Service Center, Raleigh, NC 27699; phone (984) 236-4509; email rulesreview@ncagr.gov

Comment period ends: May 31, 2022

Procedure for Subjecting a Proposed Rule to Legislative

Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 52 - VETERINARY

SUBCHAPTER 52B - ANIMAL DISEASE

**SECTION .0200 - ADMISSION OF LIVESTOCK TO
NORTH CAROLINA**

**02 NCAC 52B .0214 IMPORTATION
REQUIREMENTS: RABBITS RABBITS, OR ANY
SPECIES IN THE ORDER LAGOMORPHA, INCLUDING
HARES AND PIKAS**

(a) An import permit from the State Veterinarian is required for the importation of a ~~rabbit~~ rabbit, or any species in the order of Lagomorpha, including hare and pika, into the State of North Carolina originating from:

- (1) any country or state with Rabbit Hemorrhagic Disease Virus-2 ("RHDV-2") detected; or
- (2) a state or country without RHDV-2 if the ~~rabbit~~ animal makes any intervening stop in a country or state with RHDV-2 detected, if the ~~rabbit~~ animal is commingled or exposed to any other ~~rabbit~~ animal in the order of Lagomorpha not being shipped directly from the point of origin together, or if the imported rabbit is exposed to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin together.

(b) The ~~rabbit~~ import permit application shall be accompanied by an official health certificate certifying the ~~rabbit~~ animal to be free from any contagious animal disease, including RHDV-2, as follows:

- (1) If the ~~rabbit~~ animal is shipped directly without any intervening stops, without commingling or

exposure to any other ~~rabbit animal~~ in the order of Lagomorpha not being shipped directly from the point of origin together, and without exposure to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit animal~~ in the order of Lagomorpha not shipped directly from the point of origin together, then the official health certificate shall be obtained within 7 days of the date of importation into North Carolina.

- (2) If the ~~rabbit animal~~ is shipped with intervening stops, with commingling or exposure to another ~~rabbit animal~~ in the order of Lagomorpha not being shipped directly from the point of origin together, or with exposure to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit animal~~ in the order of Lagomorpha not shipped directly from the point of origin together, then the official health certificate shall be obtained from the location of the last intervening stop, commingling, or exposure, and within 7 days of the date of importation into North Carolina.

(c) No permit is needed for direct shipment of a ~~rabbit rabbit~~, or any species in the order of Lagomorpha, including hare and pika, from a country or state without RHDV-2 or if the ~~rabbit animal~~ makes intervening stops only in countries or states without RHDV-2, the ~~rabbit animal~~ is not commingled or exposed to another ~~rabbit animal~~ in the order of Lagomorpha not shipped directly from the point of origin together, and the ~~rabbit animal~~ is not exposed to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit animal~~ in the order of Lagomorpha not shipped directly from the point of origin together.

(d) The application for ~~rabbit~~ a importation shall include the state of origin, health certificate inspection date, the owner's name, address, and phone number at the time of import, the import destination within the State of North Carolina, the name, address, and phone number of the person with control and responsibility over the ~~rabbit animal~~ at the import destination, and any federal licensing, permit, and documentation required for the importation of the ~~rabbit animal~~ if imported from outside of the United States of America.

(e) A ~~rabbit rabbit~~, or any species in the order of Lagomorpha, including hare and pika, requiring an import permit that is imported into North Carolina shall be accompanied by an official health certificate with the import permit number and shall be made available for inspection by the State Veterinarian or his or her designee upon request.

(f) An intervening stop is defined as a stop in a country or state longer than 24 hours but less than 10 days. The location of any stop for longer than 10 days shall be deemed the new country or state of origin.

(g) Health certificates issued outside of the United States shall be issued in English and by a veterinarian with a valid license to practice veterinary medicine in the country of export.

Authority G.S. 106-317.

TITLE 08 – STATE BOARD OF ELECTIONS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Elections intends to adopt the rules cited as 08 NCAC 04 .0308 and .0309.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncsbe.gov/about-elections/legal-resources/rulemaking>

Proposed Effective Date: *August 1, 2022*

Public Hearing:

Date: *April 27, 2022*

Time: *10:00 a.m.*

Location: *Webex –*

<https://ncgov.webex.com/ncgov/onstage/g.php?MTID=eb7df6dc17fa73d6df9b8b571344cc36b>; telephone dial-in 415-655-0003; access code 2438 018 7935

Reason for Proposed Action: *These two rules would govern the process by which a person, who is authorized by G.S. 163-165.7, may gain access to, review, and examine information that voting system vendors place in escrow as a condition of State certification for their voting systems. Such information includes proprietary and highly sensitive information for certified voting systems, including the source code for voting machines and election management systems and their software. These rules are designed to ensure that statutorily authorized individuals may review this information without risking the disclosure of proprietary information belonging to vendors or the disclosure of features of voting systems that could be exploited by malicious actors to compromise the integrity of the State's elections.*

Comments may be submitted to: *Paul Cox, NC State Board of Elections, 6400 Mail Service Center, Raleigh, NC 27603-1362; email rulemaking.sboe@ncsbe.gov*

Comment period ends: *May 31, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: *If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.*

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
☐ Local funds affected
☐ Substantial economic impact ($\geq \$1,000,000$)
☐ Approved by OSBM
☒ No fiscal note required

CHAPTER 04 - VOTING EQUIPMENT

SECTION .0300 – APPROVAL AND OPERATION OF VOTING SYSTEMS

08 NCAC 04 .0308 AUTHORIZED ACCESS TO VOTING SYSTEM INFORMATION IN ESCROW

(a) Subject to the provisions of this Rule, upon written request from a person or entity authorized under G.S. 163-165.7(a)(6) to a vendor of a certified voting system in this state, the vendor shall make available for review and examination any information placed in escrow under G.S. 163-165.9A to an authorized person. The person or entity making the request shall simultaneously provide a copy of the request to the State Board. The State chairs of each political party recognized under G.S. 163-96 shall be granted no more than one request for review and examination of a certified version of a voting system every two years.

(b) Authorized Persons. Only authorized persons may review and examine the information placed in escrow by a voting system vendor. For the purpose of this Rule, "authorized person" means a person who:

- (1) Is an agent:
 - (A) designated by majority vote in a public meeting by the State Board or a purchasing county's board of commissioners;
 - (B) designated in writing by the chair of a political party recognized under G.S. 163-96; or
 - (C) designated in writing by the Secretary of Department of Information Technology. No more than three people may be designated by an authorized entity under G.S. 163-165.7(f)(9).
- (2) Has submitted to a criminal background check as provided for in G.S. 163-27.2(b) and been approved by the Executive Director of the State Board. The Executive Director of the State Board has the discretion to deny a person authorization under this Rule based on one or more convictions returned by the criminal background check indicating the person is unsuitable to review and examine the information placed in escrow. The Executive Director shall resolve any doubts concerning the person's suitability in favor of election integrity and security. A single conviction for a minor offense, as defined in the State Board of Elections' Criminal Background Check Policy, does not constitute a basis to deny a person

authorization. The requirement to submit to a criminal background check does not apply to State employees who have already submitted to a criminal background check for State employment.

(3) Has submitted to the State Board of Elections a sworn affidavit, under penalty of perjury, attesting that the person:

- (A) has never been found by a court of law, administrative body, or former or current employer to have disclosed without authorization information that the person had access to;
- (B) has never been subject to any civil claims alleging misappropriation of trade secret, violation of confidentiality agreement or nondisclosure agreement, copyright infringement, patent infringement, or unauthorized disclosure of any information protected from disclosure by law, except to the extent any such claims were dismissed with prejudice and not pursuant to a settlement agreement;
- (C) has never had a security clearance issued by a Federal agency revoked for any reason other than expiration of the clearance.

(4) Has entered into the Confidentiality and Nondisclosure Agreement with the vendor and State Board of Elections as provided in 08 NCAC 04 .0309.

(c) Upon meeting the definition of an authorized person in Paragraph (b) of this Rule, the Executive Director of the State Board shall issue a written authorization to the person or entity making the request under Paragraph (a) of this Rule to review and examine information placed in escrow by a voting system vendor. The authorization shall be presented by the person or entity to the vendor prior to gaining access to such information under this Rule.

(d) Conditions of Access. When providing access to information in escrow pursuant to this Rule, the State Board and vendor shall ensure the following conditions are met:

- (1) The information in escrow shall be made available by the vendor on up to three computers provided by the vendor (one for each potentially designated agent under G.S. 163-165.7(f)(9)) that are not connected to any network and are located within a secure facility designated by the State Board of Elections. Such computers shall be preloaded with software tools necessary for use in viewing, searching, and analyzing the information subject to review, including tools permitting automated source code review that are preapproved by the vendor and the State Board. Such computers shall have the following access controls:

- (A) Credentials must be traceable to individuals. Generic login accounts are not authorized. Sharing of accounts and reuse of credentials is prohibited, each user must have their own assigned login account.
 - (B) Only one administrative account will be present on the system to allow for the initial provisioning of necessary applications and setup of security controls.
 - (C) Where passwords are used to authenticate authorized individuals, login accounts must use complex passwords. An example of a sufficiently complex password is one that is not based on common dictionary words and includes no fewer than 10 characters, and includes at least one uppercase letter, one lowercase letter, one number, and a special character.
 - (D) Screen lock times must be set to no longer than 10 minutes. All computers shall be locked or logged out from whenever they are not being immediately attended and used.
 - (E) The entire hard drive on any computer must have full disk encryption. Where possible, the minimum encryption level shall be AES-256.
 - (F) After the information subject to review and software tools for viewing are loaded on the computers, all ports shall be sealed with tamper-evident seals.
 - (G) After the ports are sealed, no input/output or recording devices may be connected to the computers. The State Board shall provide for the secure storage of any equipment used for the duration of the review.
- (2) The computers must be air-gapped and shall not be connected to a network, and any feature allowing connection to a network shall be disabled. Prohibited network connections include the Internet, intranet, fax, telephone line, networks established via modem, or any other wired or wireless connection.
- (3) The secure facility designated by the State Board under Subparagraph (1) of this Paragraph is the specific location where the computing equipment will be stored and the review conducted. All conduct within the facility shall meet the following conditions:
- (A) The facility must be secured from unauthorized access for the entire review period.
 - (B) Only individuals authorized under Subparagraph (b)(1), Part (d)(3)(F), and Subparagraph (d)(9) of this Rule may enter the facility. Such individuals must present government-issued photo identification upon initial entry, and may be asked to show identification multiple times throughout the review period.
 - (C) Each time an individual accesses the facility, the name of the individual, the time of their entry, the time of their departure, and a description of any materials brought in or out of the facility shall be logged.
 - (D) All equipment used in the review must remain in the facility during the review period.
 - (E) No authorized person pursuant to this Rule may possess any removable media device, cell phone, computer, tablet, camera, wearable, or other outside electronic device within the facility where the person is accessing information in escrow. No authorized person may attempt to connect the computers used in the review to any network.
 - (F) State personnel who are designated by the Executive Director of the State Board of Elections shall have access to the facility where the review is being conducted at all times, to monitor the process and ensure that all requirements of this Rule are complied with. State personnel may require persons entering and/or leaving the facility to submit to inspection and the removal of any unauthorized devices. State personnel designated pursuant to this subsection shall have the right to inspect the computers used in the review before and after the review.
- (4) Authorized persons are permitted to perform manual source code review and use code analysis tools, as provided in Subparagraph (1) of this Paragraph, to analyze the source code. This source code review shall be performed using "read only" access and any authorized person shall not interact with or perform testing of the software components.
- (5) Any review performed pursuant to this Rule shall occur during regular business hours and shall last no longer than two work weeks. Such review shall not occur during the period from the start of one-stop absentee voting through the conclusion of statewide canvassing of the vote.
- (6) Authorized persons and the vendor are each responsible for bearing their own costs in

conducting the review pursuant to G.S. 163-165.7(a)(6).

- (7) Up to three representatives of the vendor may be designated in writing by a corporate executive of the vendor to supervise the review at all times. Such representatives shall not interfere with the review, and shall be afforded a reasonable opportunity to inspect the facility for compliance with these conditions prior to the review commencing. State Board staff designated under Subparagraph (3) of this Paragraph shall have the right to monitor the review, without interfering with the review process.

(e) Dispute Resolution. Any dispute that arises between an authorized person and a vendor concerning the execution of review pursuant to this Rule may be presented to the State Board of Elections in the form of a petition seeking relief. The party seeking such relief shall serve their petition on the opposing party, and the opposing party shall have 14 days to respond. The State Board shall make a decision on the petition based on the written submissions, or it may schedule a hearing to consider the petition.

Authority G.S. 132-1.2; 132-1.7; 132-6.1; 163-22; 163-27.2; 163-165.7; 163-165.9A; 163-166.7; 163-275; 42 U.S.C. 5195c.

**08 NCAC 04 .0309 NONDISCLOSURE
AGREEMENT FOR REVIEW OF INFORMATION IN
ESCROW**

All persons seeking to gain authorization to review and examine the information placed in escrow by a voting system vendor under 08 NCAC 04 .0308 shall execute a confidentiality and nondisclosure agreement which obligates the authorized person, as that term is defined in 08 NCAC 04. 0308, to exercise the highest degree of reasonable care to maintain the confidentiality of all proprietary and security-related information to which the authorized person is granted access pursuant to 08 NCAC 04 .0308. The agreement shall require the authorized person to:

- (1) Not disclose or reveal to any person outside of the individuals or entities identified in G.S. 163-165.7(a)(6) any proprietary information to which the Authorized Person is granted access, pursuant to G.S. 132-1.2.
- (2) Not disclose or reveal to any person outside of other persons authorized under 08 NCAC 04. 0308, the State Board, or the vendor any feature, component, or perceived flaw or vulnerability of the information placed in escrow by a voting system vendor, pursuant to G.S. 132-1.7(a2), G.S. 132-1.7(b), and G.S. 132-6.1(c).
- (3) Agree that the review of the information placed in escrow by a voting system vendor shall take place in accordance with the terms and conditions of the agreement and 08 NCAC 04 .0308.
- (4) Agree that the authorized person's obligation to exercise the highest degree of reasonable care to maintain the confidentiality of all proprietary

and security-related information survives the agreement and shall continue permanently.

- (5) Agree to submit copies of any notes taken during the examination of the information in escrow to the State Board.
- (6) Acknowledge that the authorized person is responsible for any unauthorized disclosure and shall pay for any and all damages caused by any unauthorized disclosure of the information under review by the authorized person.
- (7) Acknowledges that the North Carolina State Board of Elections and the voting system vendor may enforce the agreement through any legal remedy provided under North Carolina or federal law.
- (8) Consent to the personal jurisdiction of the courts of North Carolina and agree that the Superior Court of Wake County is a proper venue for any action arising from the agreement.

The executed agreement shall be delivered to the North Carolina State Board of Elections prior to access being granted pursuant to 08 NCAC 04 .0308.

Authority G.S. 132-1.2; 132-1.7; 132-6.1; 163-22; 163-165.7; 163-165.9A; 163-166.7; 42 U.S.C. 5195c.

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN
SERVICES**

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Radiation Protection Commission intends to readopt with substantive changes the rule cited as 10A NCAC 15 .1301, and repeal through readoption the rules cited as 10A NCAC 15 .1302-.1327.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://info.ncdhhs.gov/dhsr/ruleactions.html>

Proposed Effective Date: *October 1, 2022*

Public Hearing:

Date: *May 17, 2022*

Time: *10:00 a.m.*

Location: *Dorothea Dix Park, Brown Building, Room 104, 801 Biggs Drive, Raleigh, NC 27603*

Reason for Proposed Action: *Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years, or they shall expire. As a result of the periodic review of the rules in Chapter 10A NCAC 15, Radiation Protection, these 27 proposed readoption rules were part of the 257 rules from the N.C. Radiation Protection*

Commission determined as "Necessary With Substantive Public Interest," requiring readoption. One rule is proposed for readoption with substantive changes to incorporate by reference the federal Code of Federal Regulations (CFR). Twenty-six rules are proposed for readoption as a repeal due to rule requirement redundancy within the Chapter because the readoption substantive changes proposed to Rule 15 .1301 refer to the CFRs with the same requirements that are addressed in these rules. Therefore, these twenty-six rules are not necessary.

Comments may be submitted to: Nadine Pfeiffer, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, NC 27699-2711; email DHSR.RulesCoordinator@dhhs.nc.gov

Comment period ends: May 31, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☒ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 15 - RADIATION PROTECTION

SECTION .1300 - REQUIREMENTS FOR WIRELINE-SERVICE OPERATORS AND SUBSURFACE-TRACER STUDIES

10A NCAC 15 .1301 PURPOSE AND SCOPE WELL LOGGING, WIRELINE-SERVICE OPERATIONS, AND SUBSURFACE TRACER STUDIES: REQUIREMENTS FOR LICENSEES

(a) The rules in this Section apply to all licensees who use sources of radiation for wireline service operations including mineral logging, radioactive markers, or subsurface tracer studies.

(b) The requirements of this Section are in addition to, and not in substitution for, the requirements of Sections .0100, .0300, .0900, .1000, .1100 and .1600 of this Chapter.

(a) Persons using sources of radiation for well logging, wireline-service operations including mineral logging,

radioactive markers, or subsurface tracer studies shall comply with the provisions of 10 CFR Part 39, except that 10 CFR 39.5, 39.8, 39.101, and 39.103 shall not apply. Persons conducting subsurface tracer studies shall meet the additional requirement listed in Paragraph (d) of this Rule.

(b) In addition to the terms defined in 10 CFR 39.2, the following definitions shall also apply to this Section:

- (1) "Mineral logging" means any logging performed for the purpose of mineral exploration other than oil or gas;
- (2) "Well-bore" means a drilled hole in which wireline-service operations and subsurface-tracer studies are performed;
- (3) "Wireline" means a cable containing one or more electrical conductors that is used to lower and raise logging tools in the well-bore; and
- (4) "Wireline-service operations" means any evaluation or mechanical service that is performed in the well-bore using devices on a wireline.

(c) Applications required by 10 CFR 39.11 shall be made on forms provided by the agency, and the payment of fees required by 10 CFR Part 170 shall not apply. Applications and supporting material shall be submitted to the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC:

- (1) Persons applying for new radioactive materials licenses, or for the renewal of existing radioactive materials licenses, shall submit an Application for Radioactive Materials License. The instructions for completing the application printed on the application form shall be followed. The following information shall appear on the application:
 - (A) legal business name and mailing address;
 - (B) physical address(es) where radioactive material shall be used or possessed. The application shall indicate if radioactive materials shall be used at temporary jobsites;
 - (C) the name, telephone number, and e-mail address of the Radiation Safety Officer;
 - (D) the name, telephone number, and e-mail address of the individual to be contacted about the application. If this individual is same as the Radiation Safety Officer, the application may so state;
 - (E) the application shall indicate if the application is for a new license, or for the renewal of an existing license, by marking the corresponding check box;
 - (F) if the application is for the renewal of an existing license, the license number shall be provided on the application;
 - (G) applicants shall indicate the type and category of license as shown on the

- (H) the printed name, title, and signature of the certifying official. The certifying official shall be an individual employed by the business or licensee, who is authorized by the licensee to sign license applications on behalf of the business or licensee.
- (2) Persons applying for an amendment to an existing license shall submit an Application for Amendment of Radioactive Materials and Accelerator Licenses. The instructions for completing the application printed on the application form shall be followed. The following information shall appear on the application:
- (A) the license number;
- (B) amendment number of the current license;
- (C) expiration date of the license;
- (D) licensee name as it currently appears on the license;
- (E) the name, telephone number, and e-mail address of the Radiation Safety Officer;
- (F) the name, telephone number, and e-mail address of the individual to be contacted about the application. If this individual is same as the Radiation Safety Officer, item 5b on the application may be left blank;
- (G) applicants shall provide a description of the action requested by marking the corresponding checkbox in item 6a. If the check box next to "Other" is marked in item 6a, provide a brief description of the action requested in the space provided in item 6b;
- (H) explanation of the action requested; and
- (I) the printed name, title, and signature of the certifying official. The certifying official shall be an individual employed by the business or licensee who is authorized by the licensee to sign license applications on behalf of the business or licensee.
- (3) Applications specified in this Rule are available at:
[www.ncradiation.net/rms/rmsforms2.htm\(Rev 01\).htm](http://www.ncradiation.net/rms/rmsforms2.htm(Rev 01).htm).
- (d) Persons conducting subsurface tracer studies using unsealed sources of radiation shall obtain agency approval prior to injecting licensed material into the subsurface.
- (e) Notifications, authorization requests, and reports required by 10 CFR 39.77 shall be made to the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC.

(f) Applications for exemptions to this Rule shall be submitted to the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC.

(g) The regulations cited in this Rule from 10 CFR Part 39 are hereby incorporated by reference, including subsequent amendments and editions. Copies of these regulations are available free of charge at <https://www.nrc.gov/reading-rm/doc-collections/cfr/part039/>.

Authority G.S. 104E-7.

10A NCAC 15 .1302	DEFINITIONS
10A NCAC 15 .1303	WRITTEN AGREEMENTS
REQUIRED	
10A NCAC 15 .1304	LIMITS ON LEVELS OF
RADIATION	
10A NCAC 15 .1305	STORAGE PRECAUTIONS
10A NCAC 15 .1306	TRANSPORT PRECAUTIONS
10A NCAC 15 .1307	RADIATION SURVEY
INSTRUMENTS	
10A NCAC 15 .1308	LEAK TESTING OF SEALED
SOURCES	
10A NCAC 15 .1309	QUARTERLY INVENTORY
10A NCAC 15 .1310	UTILIZATION RECORDS
10A NCAC 15 .1311	DESIGN: PERFORMANCE: AND
CERTIFICATION CRITERIA	
10A NCAC 15 .1312	LABELING
10A NCAC 15 .1313	INSPECTION AND
MAINTENANCE	
10A NCAC 15 .1314	TRAINING REQUIREMENTS
10A NCAC 15 .1315	OPERATING AND
EMERGENCY PROCEDURES	
10A NCAC 15 .1316	PERSONNEL MONITORING
10A NCAC 15 .1317	SECURITY
10A NCAC 15 .1318	HANDLING TOOLS
10A NCAC 15 .1319	SUBSURFACE-TRACER
STUDIES	
10A NCAC 15 .1320	PARTICLE ACCELERATORS
10A NCAC 15 .1321	RADIATION SURVEYS
10A NCAC 15 .1322	DOCUMENTS AND RECORDS
REQUIRED AT FIELD STATIONS	
10A NCAC 15 .1323	DOCUMENTS AND RECORDS
REQUIRED AT TEMPORARY JOBSITES	
10A NCAC 15 .1324	NOTIFICATION OF
INCIDENTS: ABANDONMENT: AND LOST SOURCES	
10A NCAC 15 .1325	SUBJECTS IN TRAINING
COURSES FOR LOGGING SUPERVISORS	

Authority G.S. 20-167.1; 104E-7; 104E-10(b); 104E-12(a); 104E-12(a)(1); 104E-12(a)(2); 104E-15(a); 10 C.F.R. Chapter 1, Commission Notices, Policy Statements, Agreement States, 46 F.R. 7540.

10A NCAC 15 .1326	ENERGY COMPENSATION
SOURCES	
10A NCAC 15 .1327	TRITIUM NEUTRON
GENERATOR TARGET SOURCES	

Authority G.S. 104E-7.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Mental Health/DD/SAS intends to adopt the rules cited as 10A NCAC 26E .0604, .0605, and amend the rule cited as 10A NCAC 26E .0602.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdhhs.gov/divisions/mental-health-developmental-disabilities-and-substance-abuse/commission-mhddsas/proposed-rules>

Proposed Effective Date: November 1, 2022

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published. A request for a public hearing must be submitted in writing to dmhddsarules@dhhs.nc.gov.*

Reason for Proposed Action: *The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (Commission) proposes to amend Rule 10A NCAC 26E .0602, Definitions, to incorporate additional definitions regarding the controlled substances reporting system. The Commission proposes to adopt Rule 10A NCAC 26E .0604, Reporting Requirements, to make clear the information that must be reported to the Controlled Substances Reporting System (CSRS) and to identify the time frames for notifying dispensers of reporting errors and that governing the dispenser's correction of the same. Rule 10A NCAC 26E .0605, Penalties, is proposed for adoption to provide notice of the factors DHHS must consider in assessing a penalty against those in violation of Chapter 90, Article 5E of the NC General Statutes.*

Comments may be submitted to: W. Denise Baker, 3001 Mail Service Center, Raleigh, NC 27699-3001

Comment period ends: May 31, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☒ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 26 - MENTAL HEALTH, GENERAL

SUBCHAPTER 26E - MANUFACTURERS: DISTRIBUTORS; DISPENSERS AND RESEARCHERS OF CONTROLLED SUBSTANCES

SECTION .0600 - CONTROLLED SUBSTANCES REPORTING SYSTEM

10A NCAC 26E .0602 DEFINITIONS

(a) As used in this Section, the following terms shall have the meanings as specified:

- (1) "Controlled substance reporting system" means the reporting system as set forth in Article 5E of Chapter 90.
- (2) "ASAP" means the American Society for Automation in Pharmacy.
- (3) "DEA" means the Drug Enforcement Administration responsible for enforcing the controlled substances laws and regulations of the United States.
- (4) "Delegate Account Holder" means a person designated to review records of the NC Controlled Substance Reporting System with the written approval of the Master Account Holder.
- (5) "DHHS" means North Carolina Department of Health and Human Services.
- (6) "Dispense" means the same as defined in G.S. 90-87.
- (7) "Dispenser" means the same as defined in G.S. 90-113.72.
- (8) "Good faith" means an attempt to report the information required by G.S. 90-113.73(a) that was unsuccessful due to the system not being operational due to a temporary electrical or technological failure.
- (9) "Master Account Holder" means a practitioner, as defined in G.S. 90-87, who has current DEA registration.
 - (A) "Zero Reporting" means the following: instances when a dispenser who, except as provider in G.S. 90-113(c) and (d), fails to comply with the reporting provisions of G.S. 90-113; or
 - (B) instances when a dispenser dose not dispense any Schedule II – IV controlled substances during the previous business day.

- (10) Pharmacist-patient relationship means a consensual relationship in which an individual seeks pharmaceutical care from a pharmacist, and the pharmacist affirmatively acts to provide pharmaceutical care, or agrees to do so.
- (11) Prescriber-patient relationship means a consensual relationship in which an individual seeks medical care from a prescriber, and the prescriber affirmatively acts to provide medical care, or agrees to do so.
- (12) Data Errors notification-error notifications related to data submission that are sent by the software vendor of the dispenser that is required to report will be deemed to be a notice of error report to the dispenser.

(b) Any term not defined in this Section shall have the same definitions as set forth in G.S. 90-87 and 90-113.72.

Authority G.S. 90-113.70; 90-113.76.

10A NACA 26E .0604 REPORTING REQUIREMENTS

(a) Each dispenser shall report the following information to the Controlled-Substances Reporting System in accordance with the time frames provided in G.S. 90-113.73.

- (1) The dispenser's DEA number.
- (2) The name of the patient for whom the controlled substance is being dispensed as well as the patient's:
 - (A) Full address including apartment number, where applicable, city, state, and zip code;
 - (B) Telephone number; and
 - (C) Date of Birth.
- (3) The date the prescription was written.
- (4) The date the prescription was filled.
- (5) The prescription number.
- (6) Whether the prescription is new or refill.
- (7) The metric quantity of the drug dispensed.
- (8) The estimated days of supply of the dispensed drug, if provided to the dispenser.
- (9) The national drug code of the dispensed drug.
- (10) The prescriber's DEA number.
- (11) The method of payment for the prescription.

(b) DHHS shall notify the dispenser of failure to report data as required by G.S. 90-113.73 and any reporting errors related to that submission in writing, within ten business days of detecting the error.

(c) The dispenser shall correct the error(s) and resubmit the required information within ten calendar days of the date of the written notification.

(d) The dispenser shall correct the reporting error via the CSRS website or by resubmitting the report itself.

Authority G.S. 90-113.73.

10A NCAC 26E .0605 PENALTIES

(a) DHHS shall consider the following factors in determining the amount of each civil penalty assessed against a person who violates Chapter 90, Article 5E:

- (1) the type of violation including whether it involved an improper attempt to obtain or release information from the CSRS;
- (2) whether the violation involved success in improperly obtaining or releasing information from the CSRS;
- (3) the level of intent evident in the violation including whether it was done intentionally, knowingly, or negligently;
- (4) the frequency of the violations the person has committed; and
- (5) the number of violations the person has committed.

(b) DHHS shall consider the following factors in determining the amount of civil penalty assessed against a pharmacy that employs dispensers who fail to report information in accordance with G.S. 90-113.73(e):

- (1) whether it is a first, second, third, or subsequent violation within a calendar year;
- (2) whether it is a continuing violation;
- (3) whether the pharmacy has acted in good faith in attempting to report the required information.

Authority G.S. 90-113.75.

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Commission for Mental Health/DD/SAS intends to readopt without substantive changes the rule cited as 10A NCAC 27G .0207 and .2202.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncdhhs.gov/divisions/mhddsas/councils-commissions/rulemakingprocess/proposedrules>

Proposed Effective Date: November 1, 2022

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published. A request for a public hearing must be submitted in writing to dmhddsarules@dhhs.nc.gov.*

Reason for Proposed Action: *This rule must be readopted per the requirements of G.S. 150B-21.3A as they were determined necessary with substantive public interest during the periodic review process.*

Comments may be submitted to: W. Denise Baker, 3001 Mail Service Center, Raleigh, NC 27699-3001

Comment period ends: *May 31, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 27 - MENTAL HEALTH, COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .0200 – OPERATION AND MANAGEMENT RULES

10A NCAC 27G .0207 EMERGENCY PLANS AND SUPPLIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .2200 - BEFORE/AFTER SCHOOL AND SUMMER DEVELOPMENTAL DAY SERVICES FOR CHILDREN WITH OR AT RISK FOR DEVELOPMENTAL DELAYS, DEVELOPMENTAL DISABILITIES, OR ATYPICAL DEVELOPMENT

10A NCAC 27G .2202 STAFF (READOPTION WITHOUT SUBSTANTIVE CHANGES)

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09A .0103; 09B .0101-.0106, .0111, .0114, .0116, .0117, .0202, .0314, .0701; and 09C .0310.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>

Proposed Effective Date: *October 1, 2022*

Public Hearing:

Date: *August 10, 2022*

Time: *10:00 a.m.*

Location: *Wake Technical Community College Public Safety Center, 321 Chapanoke Rd., Raleigh, NC 27603*

Reason for Proposed Action:

12 NCAC 09A .0103, 09B .0101-.0106, .0111, .0114, .0116, .0117 and 09C .0310 to ensure uniformity of minimum standards.

12 NCAC 09B .0202 to establish requirements for the submission of Pre- and Post delivery for the Division of Juvenile Justice courses.

12 NACA 09B .0314 to specify the renewal requirements for Diversion Investigator and Diversion Supervisors.

12 NACA 09B .0701 to allow all qualified military police applicants to attend identified training and pass the State Comprehensive Examination within their one-year probationary period.

Comments may be submitted to: *Charminique D. Williams, 1700 Tryon Park Drive, Raleigh, NC 27602*

Comment period ends: *August 10, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09A - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0100 - COMMISSION ORGANIZATION AND PROCEDURES

12 NCAC 09A .0103 DEFINITIONS

The following definitions apply throughout Subchapters 12 NCAC 09A through 12 NCAC 09F, except as modified in 12 NCAC 09A .0107 for the purpose of the Commission's rule-making and administrative hearing procedures:

- (1) "Active Duty Military" means, for the purpose of determining eligibility for certification pursuant to 12 NCAC 09B .0401 and 12 NCAC 09B .0403, full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance while in the active military service at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.
- (2) "Agency" or "Criminal Justice Agency" means those state and local agencies identified in G.S. 17C-2(2).
- (3) "Alcohol Law Enforcement Agent" means a law enforcement officer appointed by the Secretary of the Department of Public Safety as authorized by G.S. 18B-500.
- (4) "Chief Court Counselor" means the person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Department of Public Safety, Division of Adult Correction and Juvenile Justice.
- (5) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and Training Standards Commission or equivalent regulating body from another state that a person performed the acts necessary to satisfy the elements of a specified criminal offense.
- (6) "Convicted" or "Conviction" means, for purposes of this Chapter, the entry of:
 - (a) a plea of guilty;
 - (b) a verdict or finding of guilt by a jury, judge, magistrate, or other adjudicating body, tribunal, or official, either civilian or military; or
 - (c) a plea of no contest, nolo contendere, or the equivalent.
- (7) "Criminal Justice Officer(s)" means those officers identified in G.S. 17C-2(3), ~~47C-2(3), and excluding Correctional officers and probation/parole officers.~~

- (8) "Criminal Justice System" means the whole of the State and local criminal justice agencies described in Item (2) of this Rule.
- (9) ~~"Department Head"~~ "Agency Head" means the chief administrator of any criminal justice agency, and specifically includes any chief of police or agency director. ~~"Department Head"~~ "Agency Head" also includes a designee appointed in writing by the ~~Department Head.~~ Agency Head.
- (10) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (11) "Educational Points" means points earned toward the Professional Certificate Programs for studies completed, with passing scores achieved, for semester hour or quarter hour credit at a regionally-accredited institution of higher learning. Each semester hour of college credit equals one educational point and each quarter hour of college credit equals two-thirds of an educational point.
- (12) "Enrolled" means that an individual is currently actively participating in an on-going presentation of a Commission-certified basic training course that has not concluded on the day probationary certification expires. The term "currently actively participating" as used in this definition means:
 - (a) for law enforcement officers, that the officer is attending an approved course presentation averaging a minimum of 12 hours of instruction each week; and
 - (b) for Department of Public Safety, Division of Adult Correction and Juvenile Justice personnel, that the officer is attending the last or final phase of the approved training course necessary for satisfying the total course completion requirements.
- (13) "High School" means an educational program that meets the compulsory attendance requirements in the jurisdiction in which the school is located.
- (14) "In-Service Training" means all training prescribed in 12 NCAC 09E .0105 that must be completed, with passing scores achieved, by all certified law enforcement officers during each full calendar year of certification.
- (15) "In-Service Training Coordinator" means the person designated by a Criminal Justice Agency head to administer the agency's In-Service Training program.
- (16) "Lateral Transfer" means the employment of a criminal justice officer by a Criminal Justice Agency based upon the officer's special qualifications or experience, without following the usual selection process established by the agency for basic officer positions.

- (17) "Law Enforcement Code of Ethics" means the code adopted by the Commission on September 19, 1973, that reads as follows:

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

I will keep my private life unsullied as an example to all, and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will never engage in acts or corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God or by affirmation to my chosen profession law enforcement.

- (18) "Juvenile Court Counselor" means a person responsible for intake services and court supervision services to juveniles under the supervision of the chief court counselor.
- (19) "Juvenile Justice Officer" means a person designated by the Secretary of the Department of Public Safety, Division of Adult Correction and Juvenile Justice to provide for the care and supervision of juveniles placed in the physical custody of the Department.
- (20) "Law Enforcement Officer" means an appointee of a Criminal Justice Agency, an agency of the State, or of any political subdivision of the State who, by virtue of his or her office, is empowered to make arrests for violations of the laws of this State. Specifically excluded from the title "Law Enforcement Officer" are sheriffs and their sworn appointees with arrest authority who are governed by the provisions of G.S. 17E.

- (21) "Law Enforcement Training Points" means points earned toward the Law Enforcement Officers' Professional Certificate Program by successful completion of Commission-approved law enforcement training courses. Twenty classroom hours of Commission-approved law enforcement training equals one law enforcement training point.

- (22) "LIDAR" is an acronym for "Light Detection and Ranging" and means a speed-measuring instrument that electronically computes, from transmitted infrared light pulses, the speed of a vehicle under observation.

- (23) "Local Confinement Personnel" means any officer, supervisor, or administrator of a local confinement facility in North Carolina as defined in G.S. 153A-217; any officer, supervisor, or administrator of a county confinement facility in North Carolina as defined in G.S. 153A-218; or any officer, supervisor, or administrator of a district confinement facility in North Carolina as defined in G.S. 153A-219.

- (24) "Misdemeanor" means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses are classified by the Commission as follows:

- (a) "Class A Misdemeanor" means a misdemeanor committed or omitted in violation of any common law, duly-enacted ordinance, or criminal statute of this State that is not classified as a Class B Misdemeanor pursuant to Sub-item (24)(b) of this Rule. Class A Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Excluded from "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions or duly enacted ordinances of an authorized governmental entity, with the exception of the offense of impaired driving that is included herein as a Class A Misdemeanor if the offender

could have been sentenced for a term of not more than six months. Also included herein as a Class A Misdemeanor is the offense of impaired driving, if the offender was sentenced under punishment level three G.S. 20-179(i), level four G.S. 20-179(j), or level five G.S. 20-179(k). Class A Misdemeanor shall also include acts committed or omitted in North Carolina prior to October 1, 1994, in violation of any common law, duly enacted ordinance, or criminal statute of this State for which the maximum punishment allowable for the designated offense included imprisonment for a term of not more than six months.

- (b) "Class B Misdemeanor" means an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this State that is classified as a Class B Misdemeanor as set forth in the Class B Misdemeanor Manual as published by the North Carolina Department of Justice, incorporated herein by reference, and shall include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. The publication is available from the Commission's website:

<http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-6095183c4c2a/Class-B-Misdemeanor-Manual-2005.aspx>.

Class B Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Excluded from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions with the following

exceptions: Class B Misdemeanor includes the following:

- (i) either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years;
- (ii) driving while license permanently revoked or permanently suspended;
- (iii) those traffic offenses occurring in other jurisdictions which are comparable to the traffic offenses specifically listed in the Class B Misdemeanor Manual; and
- (iv) an act committed or omitted in North Carolina prior to October 1, 1994, in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this State for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years.

- (25) "Qualified Assistant" means an additional staff person designated by the School Director to assist in the administration of a course when an institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of a certified course.
- (26) "Radar" means a speed-measuring instrument that transmits microwave energy in the 10,500 to 10,550 MHZ frequency (X) band, the 24,050 to 24,250 MHZ frequency (K) band, or the 33,400 to 36,000 MHZ (Ka) band and operates in either the stationary or moving mode.
- (27) "Resident" means any youth committed to a facility operated by the Department of Public Safety, Division of Adult Correction and Juvenile Justice.
- (28) "School" or "criminal justice school" means an institution, college, university, academy, or agency that offers criminal justice, law enforcement, or traffic control and enforcement training for criminal justice officers or law enforcement officers. "School" includes the criminal justice training course curriculum, instructors, and facilities.
- (29) "School Director" means the person designated by the sponsoring institution or agency to administer the criminal justice school.

- (30) "Speed-Measuring Instruments" (SMI) means those devices or systems, including RADAR, Time-Distance and LIDAR, approved under authority of G.S. 17C-6(a)(13) for use in North Carolina in determining the speed of a vehicle under observation and particularly includes all devices or systems described or referenced in 12 NCAC 09C .0601.
- (31) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (32) "Time-Distance" means a speed-measuring instrument that electronically computes, from measurements of time and distance, the average speed of a vehicle under observation.

Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217.

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

12 NCAC 09B .0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE LAW ENFORCEMENT OFFICERS

Every ~~criminal justice~~ law enforcement officer who is employed in or has received a conditional offer of employment for a certified position by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age; ~~{and be at least 18 years of age for telecommunicators;}~~
- (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;
- (3) ~~be of good moral character pursuant to G.S. 17C-10 as evidenced by the following:~~
 - (a) ~~not having been convicted of a felony;~~
 - (b) ~~not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;~~
- (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
- (5) have had a medical examination as required by 12 NCAC 09B .0104;
 - (e) ~~not having been convicted of an offense that would prohibit the possession of a firearm or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions and can be found at no cost at <https://www.govinfo.gov/content/pkg/USCODE-2018->~~

- ~~title18/pdf/USCODE-2018-title18-partI-chap44.pdf;~~
- (d) ~~having submitted to and produced a negative result on a drug test within 60 days of employment or any in service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at <https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines/resources/drug-testing/certified-lab-list>;~~
- (e) ~~submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;~~
- (f) ~~being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;~~
- (g) ~~not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and~~
- (h) ~~not having engaged in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority.~~
- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
- (6)(5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements necessary to fulfill the officer's

- ~~particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications: as described in 12 NCAC 09C .0310;~~
- ~~(a) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;~~
 - ~~(b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;~~
 - ~~(c) the drug screen shall test for the presence of at least cannabis, cocaine, phenylcyclidine (PCP), opiates, and amphetamines or their metabolites;~~
 - ~~(d) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;~~
 - ~~(e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and~~
 - ~~(f) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples;~~
- ~~(7)(6) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered.~~
- ~~(8)(7) have been interviewed personally by the department head or the department head representative or representatives to determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate; and as described in 12 NCAC 09B .0105; and~~
- (9) have a background investigation conducted by the employing agency, including a personal interview as required by 12 NCAC 09B .0102;
 - (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
 - (11) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106. Such firearms training compliance must have occurred prior to submission of the application for appointment to the Commission and must be completed using the agency approved service handgun(s) and any other weapons(s) that the applicant has been issued or authorized to use by the agency; and
 - (12) be of good moral character as defined in : In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.
 - (13)(8) make Make the following notifications:
 - (a) within 30 days of the qualifying event notify the Standards Division and the appointing department agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
 - (b) within 30 days of the qualifying event notify the Standards Division and the appointing department agency head in writing of all criminal offenses for which the officer pleads no contest pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
 - (c) within 30 days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
 - (d) within 30 days of the date the case was disposed of in court, the department

- agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
- (e) within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the ~~department~~ agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
- (9)(f) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the ~~department~~ agency head, shall be sufficient notice for compliance with this Item.
- (14) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0102 BACKGROUND INVESTIGATION

- (a) ~~Any agency contemplating the employment of an applicant as a criminal justice officer shall, prior~~ Prior to employment, an agency shall complete a background investigation on such applicant. all applicants for certification. The investigation shall examine the applicant's character traits and habits relevant to performance as a ~~criminal justice~~ law enforcement officer and shall determine whether the applicant is of good moral character. This examination includes completion of Commission forms Personal History Statement Form (F-3) and Mandated Background Investigation Form (F-8), ensuring the proper certification and criminal history record check required by each.
- (b) Prior to the investigation, the applicant shall complete the Commission's Personal History Statement Form (F-3) to provide a basis for the investigation. The agency shall certify that the results of the background investigation are consistent with the

information provided by the applicant on the Personal History Statement Form (F-3) and give the applicant the opportunity to update the Personal History Statement Form (F-3) prior to submission to the Division.

(c) The agency shall utilize an investigator with prior experience or training in conducting background investigations. The investigator shall document the results of the investigation on the Mandated Background Investigation Form (F-8) and shall include in the report of investigation:

- (1) biographical data;
- (2) family data;
- (3) scholastic data;
- (4) employment data;
- (5) criminal history data;
- (6) interviews with the applicant's references; and
- (7) a summary of the investigator's findings and conclusions regarding the applicant's moral ~~character.~~ character known to the agency or listed on the applicant's Personal History Statement (F-3). This documentation shall be included with all other documentation required in 12 NCAC 09C .0307.

(d) The employing agency shall include a signed and notarized Release Authorization Form that authorizes the Division staff to obtain documents and records pertaining to the applicant for certification that may be required in order to determine whether certification may be granted. For criminal justice officers employed by the North Carolina Department of Juvenile Justice and Delinquency Prevention, the agency may use the method of documenting the results of the background investigation it deems most appropriate to its needs in accordance with the Commission form. However, the Commission's Mandated Background Investigation Form must be used as a guide of minimum information to be collected and recorded by the investigator for all other criminal justice officer applicants that are regulated by the Commission.

(e) The employing agency shall provide the results of a completed and processed form AOC-CR-280, Law Enforcement Application for Verification of Expunction under G.S. 15A-145.4, 15A-145.5, 15A-145.6, 15A-145.8A or 15A-146, for each applicant presented for certification. The AOC-CR-280 form is available on the Commission's website at no cost at <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>. Upon written request by the Director of the Standards Division, the employing agency shall provide the Commission with a copy of any background investigation retained by the agency.

Authority G.S. 17C-6.

12 NCAC 09B .0103 FINGERPRINT CRIMINAL HISTORY RECORD CHECK

(a) Each applicant for ~~employment~~ certification shall submit electronic fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS), fingerprinted twice, using FBI Form FD-258, Fingerprint Record Card.

(b) The employing agency ~~shall check the applicant's fingerprints against local files and shall forward both completed the applicant's fingerprints fingerprint forms [record] to the North Carolina State Bureau of Investigation for fingerprint and a criminal history~~

record check checks utilizing fingerprints against state and federal files.

(c) The employing agency will receive a report of the results of the fingerprint criminal history record check utilizing fingerprints against state and federal files. ~~Regardless of the disposition of the inquiry, the~~ The employing agency shall ~~permanently~~ retain the results of the fingerprint criminal history record check utilizing fingerprints in the applicant's personnel file, compliance with the North Carolina Department of Natural and Cultural Resources Retention and Disposition Schedule established pursuant to G.S. Chapter 121 and G.S. Chapter 132. The employing agency shall include the results of the fingerprint criminal history record check with the applications submitted to the Commission.

(d) An applicant for employment certification as a law enforcement officer may not be employed or placed in a sworn law enforcement position requiring certification by the Commission prior to the date on which the employing agency and Standards Division ~~receive~~ receives the report of the results of the fingerprint criminal history record check utilizing fingerprints. check unless all of the following requirements are met:

- (1) ~~The employing department head determines that the delay in receiving the fingerprint record check will result in undue hardship to the agency and certifies that determination to the Commission.~~
- (2) ~~The preliminary criminal history investigation conducted by the employing agency has failed to disclose any disqualifying criminal record.~~
- (3) ~~The applicant meets all of the minimum standards for employment and certification contained in this Subchapter.~~
- (4) ~~The Fingerprint Record Cards have in fact been executed, delivered to, and received by the State Bureau of Investigation for the purpose of a criminal history search.~~
- (5) ~~The applicant has completed and signed the applicant's certificate (Section A) of the Commission's Report of Appointment, wherein the applicant's temporary employment and probationary law enforcement officer certification is acknowledged to be contingent on the consistency of the fingerprint record check with the information provided in the Personal History Statement Form.~~

(e) An applicant for employment as a criminal justice officer other than a law enforcement officer may be employed prior to the date on which the employing agency receives the report of the results of the fingerprint record check, if all of the following requirements are met:

- (1) ~~The completed Fingerprint Record Cards have been forwarded to and received by the State Bureau of Investigation.~~
- (2) ~~The applicant meets all other minimum requirements for employment and certification.~~
- (3) ~~The applicant's continued employment is contingent upon the agency's review and evaluation of the results of the fingerprint record check.~~

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0104 MEDICAL EXAMINATION

(a) Each applicant for ~~employment as a criminal justice officer certification or enrollment in a basic law enforcement training course shall complete~~ complete, sign, and date the Commission's Medical History Statement Form (F-1) ~~within one year prior to employment by the employing agency~~ and shall be examined by either a surgeon, physician, physician assistant, or nurse practitioner ~~who is licensed to practice medicine in North Carolina or by a surgeon, physician, physician assistant, or nurse practitioner~~ authorized to practice medicine in accordance with the rules and regulations of the United States Armed Forces to help determine ~~his or her the applicant's~~ fitness ~~in to carry~~ carrying out the physical requirements of the ~~criminal justice officer position.~~ position of law enforcement officer.

(b) ~~The examining~~ Prior to conducting the examination, the surgeon, physician, physician assistant, or nurse practitioner shall: ~~shall record the results of the examination on the Commission's Medical Examination Report Form and shall record any evidence of past or present defects, diseases, injuries, operations.~~

- (1) read the "Medical Screening Guidelines for the Certification of Criminal Justice Officers in North Carolina" as published by the North Carolina Department of Justice. Copies of this publication may be obtained at no cost at <https://ncdoj.gov/law-enforcement-training/criminal-justice/>;
- (2) read, sign, and date the Medical History Statement Form (F-1); and
- (3) read the Instructions to Agency and Examiner for Completion of Medical Examination Report (F-2A) Form attached to the Medical Examination Report Form (F-2).

(c) ~~The examining physician, surgeon, physician's assistant, nurse practitioner, shall record the results of the examination on the Medical Examination Report Form (F-2) and shall sign and date the form. An applicant for employment as a law enforcement officer seeking general certification may not be employed or placed in a sworn law enforcement position prior to the date on which the employing agency receives the report of the results of the medical examination unless all of the following requirements are met:~~

- (1) ~~The applicant has completed and signed the applicant's certificate (Section A) of the Commission's Report of Appointment, wherein the applicant's temporary employment and probationary law enforcement officer certification is acknowledged to be contingent on a report to the Commission of the completion of the drug screening of the individual being issued general certification.~~
- (2) ~~The requirements of this Paragraph shall be met within 60 days of the law enforcement officer being issued general certification.~~

(d) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid for one year after the date the examination was conducted and shall be completed prior to:

- (1) the applicant's beginning the Basic Law Enforcement Training Course and
- (2) the agency submission of application for certification to the Commission.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0105 QUALIFICATIONS APPRAISAL EMPLOYMENT INTERVIEW

- (a) ~~Prior to employing any applicant for employment employment, as a criminal justice officer, the employing agency shall conduct an interview of the applicant to determine evaluate the applicant's knowledge, skills and abilities and potential for demonstrating potential for success as a criminal justice law enforcement officer.~~
- (b) ~~The Department Agency head should appoint a panel of staff members to sit as a unit with the Department head during the interview. However, the Department head may conduct the interview personally or by delegating delegate the responsibility to a qualified staff member or panel.~~
- (c) ~~The agency may use the method of interviewing and recording the interview it deems most appropriate to its needs. The Commission's Qualifications Appraisal Interview form may be used as a guide for the interviewer.~~

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0106 DOCUMENTATION OF EDUCATIONAL REQUIREMENTS

- (a) ~~Each applicant for employment as a certification as a criminal justice law enforcement officer shall furnish to the employing agency documentary evidence that the applicant has met the educational requirements for the criminal justice field of expected employment. of high school, college or university graduation to the employing agency. Documentary evidence of high school graduation consists of diplomas or transcripts from public schools or private schools which meet standards adopted by either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or a comparable out of state agency; or such documentation as described in Paragraphs (b), (c), (d), (e) of this Rule. Documentary evidence of college or university graduation consists of diplomas or transcripts from colleges or universities accredited as such by the Department of Education of the state in which the institution is located, an accredited body recognized by either the U.S. Department of Education or Council for Higher Education Accreditation, or the state university of the state in which the institution is located.~~
- (b) ~~High school diplomas earned through home school programs must be accompanied by a true and accurate or certified transcript and must meet the requirements of Part 3 of Article 39 of Chapter 115C of the North Carolina General Statutes, or a comparable out-of-state statute. Documentary evidence of educational requirements shall consist of official transcripts of courses completed or diplomas received from a school that meets the approval guidelines of either the North Carolina Department of Public Instruction, the Division of Non Public Instruction, or a comparable out of state agency. Documentary evidence of college or university graduation consists of diplomas or transcripts from colleges or universities accredited by the~~

~~Department of Education of the state in which the institution is located, from an accredited body recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation, or from the state university of the state in which the institution is located. High school diplomas earned through correspondence enrollment in an entity that charges a fee and requires the individual to complete little or no education or coursework to obtain a high school diploma shall not be recognized toward these minimum educational requirements.~~

- (c) Diplomas earned from high schools or equivalent institutions outside of the United States must be translated into English and be accompanied by an authentic transcript. Transcripts shall be evaluated to ensure they are scholastically comparable to United States curriculum requirements. Documentary evidence of having received a high school equivalency credential from the issuing state shall be satisfied by a certified copy of a high school equivalency credential from the issuing state.
- (d) High school diplomas earned through on-line or correspondence courses shall be evaluated on a case by case basis. Such diplomas must meet state and local requirements for the jurisdiction from which the diploma was issued.
- (e) Documentary evidence of having earned a High School Equivalency (HSE) diploma shall be satisfied by a certified copy of a high school equivalency credential or an adult high school diploma, both of which must be recognized by the U.S. Department of Education, the state Department of Education, or educational agency that is authorized in the state to issue High School E (HSE) diploma.
- (f) Documentary evidence of the attainment of satisfactory scores on any military high school equivalency examination is acceptable as evidence of high school graduation if verified by a true copy of the veteran's DD214.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0111 CRIMINAL HISTORY RECORD MINIMUM STANDARDS FOR LAW ENFORCEMENT OFFICERS

(a) Consistent with and subject to the requirements of 12 NCAC 09A .0204, every law enforcement officer employed or certified in North Carolina shall not have committed or been convicted by a local, state, federal or military court of: In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section, every law enforcement officer employed by an agency in North Carolina shall:

- (1) ~~not have committed or been convicted of:~~
- (1)(a) a felony;
- (2)(b) a crime for which the punishment could have been imprisonment for more than two years;
- (3)(c) a crime or unlawful act defined as a "Class B misdemeanor" within the five year period prior to the date of application certification for employment;
- (4) a crime or unlawful act defined as a "Class B Misdemeanor" occurring after the date of certification;
- (5)(d) four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the date of conviction;

- (6)(e) four or more crimes or unlawful acts defined as "Class A misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of certification application for employment; or
- (7)(f) a combination of four or more "Class A or B Misdemeanors" regardless of the date;
- (8) for personnel who are authorized to carry a firearm in the execution of their duties, an offense that, pursuant to 18 USC 922(g)(8), would prohibit the possession of a firearm or ammunition.

(b) The requirements of this Rule shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applications for certification.

- (2) be a high school, college, or university graduate or have passed the General Educational Development Test indicating high school equivalency; and
- (3) satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106. Such firearms training compliance must have occurred prior to submission of the application for appointment to the Commission and must be completed using the agency approved service handgun(s) and any other weapon(s) that the applicant has been issued or authorized to use by the agency.

Authority G.S. 17C-2; 17C-6; 17C-10.

12 NCAC 09B .0114 MINIMUM STANDARDS FOR LOCAL CONFINEMENT PERSONNEL

In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section,

every Every officer, supervisor, or administrator employed by a local confinement facility in North Carolina shall:

- (1) not have committed or been convicted of:
 - (a) a felony; or
 - (b) a crime for which the punishment could have been imprisonment for more than two years; or
 - (c) a crime or unlawful act defined as a "Class B misdemeanor" within the five year period prior to the date of application for employment; or
 - (d) four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the date of conviction; or
 - (e) four or more crimes or unlawful acts defined as "Class A misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of application for employment;
- (2) be a high school, college, or university graduate or have passed the General Educational

~~Development Test indicating high school equivalency.~~

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;
- (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
- (5) have had a medical examination as required by 12 NCAC 09B .0104;
- (6) have produced a negative result on a drug screen as described in 12 NCAC 09C .0310;
- (7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered.
- (8) have been interviewed as described in 12 NCAC 09B .0105; and
- (9) have a background investigation conducted by the employing agency, including a personal interview as required by 12 NCAC .09B .0102;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
- (11) be of good moral character as defined in : In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.
- (12) Make the following notifications:
 - (a) within 30 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
 - (b) within 30 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);

- (c) within 30 days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
 - (d) within 30 days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
 - (e) within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
 - (f) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Item.
- (13) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

Authority G.S. 17C-2; 17C-6; 17C-10.

12 NCAC 09B .0116 MINIMUM STANDARDS FOR JUVENILE COURT COUNSELORS AND CHIEF COURT COUNSELORS

~~In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section,~~
every Every juvenile court counselor and chief court counselor employed by the North Carolina Department of Juvenile Justice and Delinquency Prevention shall:

- (1) ~~not have committed or been convicted of:~~
- (a) ~~a felony;~~

- (b) ~~a crime for which the punishment could have been imprisonment for more than two years;~~
 - (c) ~~a crime or unlawful act defined as a "Class B misdemeanor" within the five year period prior to the date of application for employment;~~
 - (d) ~~four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the date of conviction; or~~
 - (e) ~~four or more crimes or unlawful acts defined as "Class A misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of application for employment; and~~
- (2) ~~have attained a bachelor's degree from a regionally accredited institution of higher learning;~~
 - (1) be a citizen of the United States;
 - (2) be at least 20 years of age;
 - (3) have attained a bachelor's degree from a regionally accredited institution of higher learning;
 - (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
 - (5) have had a medical examination as required by 12 NCAC 09B .0104;
 - (6) have produced a negative results on a drug screen as described in 12 NCAC 09C .0310;
 - (7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered;
 - (8) have been interviewed as described in 12 NCAC 09B .0105;
 - (9) use the method of documenting the results of the background investigation it deems most appropriate to its needs in accordance with the Commission form. However, the Commission's Mandated Background Investigation Form (F-8) must be used as a guide of minimum information to be collected and recorded by the investigator for all other law enforcement officer applicants that are regulated by the Commission;
 - (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
 - (11) be of good moral character as defined in: In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124

S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.

(12) Make the following notifications:

- (a) within 30 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (b) within 30 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (c) within 30 days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
- (d) within 30 days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
- (e) within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
- (f) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which

the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Item.

- (14) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

Authority G.S. 17C-6.

12 NCAC 09B .0117 MINIMUM STANDARDS FOR JUVENILE JUSTICE OFFICERS

~~In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section,~~

~~every~~ Every juvenile justice officer employed by the North Carolina Department of Juvenile Justice and Delinquency Prevention shall:

- (1) ~~not have committed or been convicted of:~~
 - (a) ~~a felony;~~
 - (b) ~~a crime for which the punishment could have been imprisonment for more than two years;~~
 - (c) ~~a crime or unlawful act defined as a "Class B misdemeanor" within the five year period prior to the date of application for employment;~~
 - (d) ~~four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the date of conviction; or~~
 - (e) ~~four or more crimes or unlawful acts defined as "Class A misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of application for employment; and~~
- (2) ~~be a high school, college, or university graduate or have passed the General Equivalency Development Test indicating high school equivalency.~~
 - (1) be a citizen of the United States;
 - (2) be at least 20 years of age;
 - (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;
 - (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
 - (5) have had a medical examination as required by 12 NCAC 09B .0104;
 - (6) have produced a negative results on a drug screen as described in 12 NCAC 09C .0310;
 - (7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one

- year from the date on which it was administered.
- (8) have been interviewed as described in 12 NCAC 09B .0105; and
- (9) use the method of documenting the results of the background investigation it deems most appropriate to its needs in accordance with the Commission form. However, the Commission's Mandated Background Investigation Form (F-8) must be used as a guide of minimum information to be collected and recorded by the investigator for all other law enforcement officer applicants that are regulated by the Commission;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
- (11) be of good moral character as defined in : In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.
- (12) Make the following notifications:
- (a) within 30 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (b) within 30 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (c) within 30 days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
- (d) within 30 days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of

the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition; within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.

(f) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Item.

- (14) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

Authority G.S. 17C-2; 17C-6; 17C-10.

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR

(a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course, the School Director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter;
- (2) Select and schedule instructors who are certified by the Commission;
- (3) Provide each instructor with a current Commission course outline and all necessary additional information concerning the instructor's duties and responsibilities;
- (4) Notify each instructor that he or she shall comply with the Basic Law Enforcement Training Course Management Guide and

- provide him or her access to the most current version of the Course Management Guide;
- (5) Ensure each instructor utilizes Commission approved lesson plans and instructional materials;
 - (6) Arrange for the availability of appropriate audiovisual aids and materials, publications, facilities, and equipment for training in all topic areas;
 - (7) Develop, adopt, reproduce, and distribute any supplemental rules and requirements determined by the school to be necessary or appropriate for:
 - (A) effective course delivery;
 - (B) establishing responsibilities and obligations of agencies or departments employing or sponsoring course trainees; and
 - (C) regulating trainee participation and demeanor, ensuring trainee attendance, and maintaining performance records;
 - (8) If appropriate, recommend housing and dining facilities for trainees;
 - (9) Administer the course delivery in accordance with Commission approved lesson plans and course management guides;
 - (10) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated. The comprehensive final examination shall be administered by the Criminal Justice Education and Training Standards Commission; and
 - (11) Report the completion of each presentation of a Commission-certified criminal justice training course to the Commission, utilizing forms required for submission, which are located on the Agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>.
- (b) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified Basic Law Enforcement Training Course, the School Director shall:
- (1) Deliver training in accordance with the most current version of the Basic Law Enforcement Training Course Management Guide as published by the North Carolina Justice Academy;
 - (2) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks, except that there may be as many as three one-week breaks until course requirements are completed;
 - (3) Schedule only specialized instructors certified by the Commission to teach those high-liability areas as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors or role players;
 - (4) With the exception of the First Responder, Physical Fitness, Explosives and Hazardous Materials, and topical areas outlined in Rule .0304(a) of this Subchapter, schedule one specialized instructor certified by the Commission for every six trainees while engaged in a practical performance exercise;
 - (5) Schedule one specialized instructor certified by the Commission for every eight trainees while engaged in a practical performance exercise in the topical area "Subject Control Arrest Techniques";
 - (6) Schedule no single individual to instruct more than 35 percent of the total hours of the curriculum during any one delivery of the Basic Law Enforcement Training Course presentation;
 - (7) Not less than 30 days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation pursuant to 12 NCAC 09C .0211. The Pre-Delivery Report (Form F-10A) shall indicate a requested date and location for the administration of the State comprehensive exam, and include the following attachments:
 - (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments; and
 - (B) a copy of any rules and requirements for the school. A copy of those rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course;
 - (8) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each instructor once during each three year certification period in each topic taught by the instructor and prepare a written evaluation on the instructor's performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure that the instructor is using the Instructional System Design model, and that the delivery is objective-based, documented by, and consistent with a Commission-approved lesson plan. For each topic area, the School Director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluations of the instructor. For probationary instructors, the evaluations conducted by another instructor shall be prepared on the Criminal Justice Instructor

Evaluation (Form F-16) and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16), be kept on file by the school for a period of three years, and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated;

(9) Administer or designate a staff person to administer course specific tests during course delivery:

- (A) to determine and record the level of trainee comprehension and retention of instructional subject matter;
- (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
- (C) to determine subject or topic areas of deficiency for the application of Rule .0405(a)(3) of this Subchapter; and

(10) Not more than 10 days after the conclusion of a school's offering of Basic Law Enforcement Training, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B) that shall include:

- (A) a "Student Course Completion" form for each individual enrolled on the day of orientation;
- (B) a "Certification and Test Score Release" form;
- (C) the "Police Officer Physical Ability Test (POPAT) Post-Course" final form; and
- (D) the orientation class enrollment roster.

(c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified "Criminal Justice Instructor Training Course," the School Director shall:

- (1) Schedule course presentation pursuant to Rule .0209 of this Subchapter;
- (2) Schedule evaluators as follows:
 - (A) each evaluator, as well as the instructors, shall have completed a Commission-certified instructor training course or an equivalent

instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and each instructor and evaluator shall document successful participation in a program presented by the North Carolina Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation;

(B)

(3) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-10A) ~~(Form F-10A(ITE))~~ with the following attachments:

- (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments;
- (B) the names and instructor numbers for of all instructors and evaluators; and
- (C) a copy of any rules and requirements for the school; and

(4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report (Form F-10B) ~~(Form F-10B(ITE))~~ containing the following:

- (A) class enrollment roster;
- (B) a course schedule with the designation of instructors and evaluators utilized in delivery;
- (C) scores recorded for each trainee on the 70 minute skill presentation; and
- (D) designation of trainees who completed the course in its entirety and whom the School Director finds to be competent to instruct.

(d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall:

- (1) select and schedule speed measurement instrument instructors who are certified by the Commission as instructors for the specific speed measurement instruments in which the trainees are to receive instruction as follows:
 - (A) provide to the instructor the Commission form(s) for motor skill examination on each trainee;
 - (B) require the instructor to complete the motor skill examination form on each trainee indicating the level of proficiency obtained on each specific instrument; and

- (C) require each instructor to sign each individual form and submit the original to the School Director;
- (2) not fewer than 30 days before the scheduled starting date, submit to the Director of the Standards Division a Pre-Delivery Report of Speed Measuring Instrument Course Presentation (Form-F-10A) ~~{Form F-10A (SMI)}~~ that shall contain a period of course delivery including the proposed starting date, course location, requested date and location for the administration of the State exam, and the number of trainees to be trained on each type of approved speed measurement instrument. The Director of the Standards Division shall review the request and notify the School Director within thirty business days if the request is approved or denied; and
- (3) upon completing delivery of the Commission-certified course, and not more than 10 days after the conclusion of a school's offering of a certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall notify the Commission regarding the progress and achievements of each trainee by submitting a Post-Delivery Report of Training Course Presentation (Form F-10 B) ~~{Form F-10B (SMI)}~~. This report shall include the original motor-skill examination form(s) completed and signed by the certified instructor responsible for administering the motor-skill examination to the respective trainee.

(e) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified Juvenile Justice Officer Basic, Juvenile Justice Court Counselor and Chief Court Counselor Basic, and Restraints, Controls, and Defensive Techniques Instructor course, the School Director shall:

- (1) Schedule course presentation pursuant to Rules .0235, .0236, and .0241 of this Subchapter;
- (2) Schedule only specialized instructors certified by the Commission to teach those high-liability areas as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors or role players;
- (3) Schedule one specialized instructor certified by the Commission for every eight trainees while engaged in a practical performance exercise in the topical area "Restraints, Controls, and Defensive Techniques";
- (4) Not less than 30 days before commencing delivery of the Juvenile Justice Officer Basic Training Course, Juvenile Justice Court Counselor and Chief Court Counselor Basic Training Course, or Restraints, Controls, and Defensive Techniques Instructor Course, submit to the Commission a Pre-Delivery

Report of Training Course Presentation pursuant to 12 NCAC 09C .0211. The Pre-Delivery Report (Form F-10A) shall indicate a requested date and location for the administration of the State comprehensive exam, and include the following attachments:

- (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments; and
- (B) a list of all instructors scheduled to instruct in the course identified in the Pre-Delivery document.
- (5) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each instructor once during each three year certification period in each topic taught by the instructor and prepare a written evaluation on the instructor's performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure that the instructor is using the Instructional System Design model, and that the delivery is objective-based, documented by, and consistent with a Commission-approved lesson plan. For each topic area, the School Director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluations of the instructor. For probationary instructors, the evaluations conducted by another instructor shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16) and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16), be kept on file by the school for a period of three years, and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated;
- (6) Not more than 10 days after the conclusion of a school's offering of Juvenile Justice Officer Basic, Juvenile Justice Court Counselor and Chief Court Counselor Basic or Restraints, Controls, and Defensive Techniques training course, submit to the Commission a Post-

Delivery Report of Training Course Presentation (Form F-10B) that shall include:

- (A) class enrollment roster;
- (B) a course schedule with the designation of instructors and evaluators utilized in delivery;
- (C) a "Certification and Test Score Release" form;

Authority G.S. 17C-6.

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0314 CERTIFICATION OF DIVERSION INVESTIGATORS AND SUPERVISORS

(a) The diversion training courses for investigators and supervisors shall provide the trainee with the skills and knowledge to perform the duties of a law enforcement Diversion Investigator or Supervisor. The diversion training course for investigators shall be 20 classroom hours. The diversion training course for supervisors shall be administered in a four hour online training course. To be certified as a Diversion Investigator or Diversion Supervisor the trainee shall complete the respective diversion training course and achieve a minimum score of 70 percent on the comprehensive written or online examination.

(b) Applications for Diversion Investigator or Diversion Investigator Supervisor Certification shall be submitted to the Standards Division within 60 days of the date the applicant passed the State comprehensive examination administered at the conclusion of the Commission-accredited diversion training program. Persons having completed the Commission-accredited diversion training course and not having submitted the application within 60 days of the date the applicant passed the State comprehensive examination shall complete a subsequent Commission-accredited diversion training course in its entirety.

(c) Only a Sheriff, deputy sheriff, or law enforcement officer certified or appointed through the North Carolina Criminal Justice Education and Training Standards or North Carolina Sheriffs' Education and Training Standards Commissions and employed by a law enforcement agency shall be enrolled in a diversion training course. A trainee shall not be certified as a Diversion Investigator or Diversion Supervisor until the Basic Law Enforcement Training course, pursuant to Rule .0205 of this Subchapter, has been completed with passing scores and probationary or general law enforcement certification has been granted. Sheriffs and appointed deputy sheriffs shall be allowed to participate in the diversion training courses on a space available basis at the discretion of the Diversion Training Course School Director without having enrolled in, or having completed with passing scores, the Basic Law Enforcement Training course, pursuant to Rule .0205 of this Subchapter and 12 NCAC 09G .0411 and without being currently certified in a probationary status or holding justice officer certification.

(d) Special Agents with the North Carolina State Bureau of Investigation deemed Diversion Investigators as of July 1, 2019, shall be automatically granted certification under this Rule for a period of three years.

(e) The term of certification as a Diversion Investigator or Supervisor shall be three years. An application for renewal shall be received by the CJ Standards Division within 60 days from the current certification expiration date and shall include the following:

- (1) proof that the applicant completed the one hour Diversion Investigator or Diversion Supervisor refresher training as provided by the NC Justice Academy.
- (2) a completed Diversion Investigator/Supervisor Application, Form F-22(LE).

(f)(e) The "Diversion Training Courses" required for certification, authored by the North Carolina State Bureau of Investigation and published by the North Carolina Justice Academy, shall include the topic areas as outlined in G.S. 17C-6(a)(19) and is to be applied as the basic curriculum for the Diversion Training Courses for Diversion Investigator and Diversion Supervisors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tyron Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

and obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

Authority G.S. 17C-6; 17E-4; 90-113.74E.

SECTION .0700 – MILITARY TRAINED APPLICANT

12 NCAC 09B .0701 MILITARY TRANSFEREES

(a) Pursuant to G.S. 17C-10.1 a current or honorably-discharged former military police officer seeking certification as a law enforcement officer shall submit to the Standards Division a completed Form F-21, Request for Military Evaluation for BLET, and copies of the individual's military law enforcement training and personnel records and Certificate of Release or Discharge documentation from Military Service. Form F-21 is located on the agency's website: http://www.ncdoj.gov/getdoc/f7c44036-d56a-4c12-90a3-d73a8806493f/F-21_Military-EvalCJ_6-8-15.aspx.

(b) Upon receipt of the documentation prescribed in Paragraph (a) of this Rule, the Standards Division shall evaluate the applicant's combined training and experience pursuant to G.S. 93B-15.1 to determine if the applicant's combined training and experience is substantially equivalent to or exceeds the minimum requirements for employment as a law enforcement officer as prescribed in Rules 09B .0101, 09B .0111, and 09B .0403 of this Subchapter.

(c) The Division shall issue probationary certification, pursuant to Rule 09C .0303 of this Chapter, to an applicant who meets the following requirements:

- (1) has completed a formal military basic training program and been awarded a military police occupational specialty rating;

- (2) has performed military police officer duties in any of the branches of military service, active or reserve, or the National Guard for not less than two of the five years preceding the date of application for certification as a law enforcement officer; and
- (3) whose combined training and experience is determined to be substantially equivalent to or exceeds the minimum expectations for employment as a law enforcement officer as prescribed in Rules .0101, .0111, and .0403(2) of this Subchapter.

(d) An applicant certified pursuant to Paragraph (c) of this Rule shall complete, within one year of being issued certification, the following with passing scores pursuant to Rule .0405(b) of this Subchapter:

- (1) the Basic Law Enforcement Training topics pursuant to Rule .0205(b)(1) and (b)(6)(A) of this Subchapter; and
- (2) the Basic Law Enforcement Training comprehensive written exam pursuant to Rule .0406(d) of this Subchapter.

(e) An applicant certified pursuant to Paragraph (c) of this Rule shall complete the in-service Firearms Training and Qualification course pursuant to 12 NCAC 09E .0106 prior to beginning employment with the hiring agency.

(f) The Division shall issue probationary certification to a current or honorably discharged military police officer whose combined training and experience is not substantially equivalent to or does not exceed the minimum requirements for employment as a law enforcement officer, as specified in Rule .0403 of this Subchapter, if the applicant meets the following requirements:

- (1) completed a formal military basic training program and been awarded a military police occupational specialty rating;
- (2) performed military police officer duties in any of the branches of military service, active or reserve, or the National Guard for not less than two of the five years preceding the date of application for certification as a law enforcement officer;
- (3) meets the minimum standards for law enforcement officers as prescribed in Rule .0101 and Rule .0111 of this Subchapter;
- (4) ~~completes with passing scores pursuant to Rule .0405(b) of this Subchapter the Basic Law Enforcement Training topics pursuant to Rule .0205(b)(1), (b)(2)(F), (b)(3)(B), (b)(3)(D), (b)(4)(F), (b)(5)(C), (b)(5)(G), (b)(6)(A), and (b)(7) of this Subchapter; and~~
- (5) ~~achieves a passing score on the Basic Law Enforcement Training comprehensive written examination pursuant to Rule .0406(d) of this Subchapter.~~

(g) An applicant certified pursuant to Paragraph (f) of this Rule shall complete, within one year of being issued certification, the following with passing scores pursuant to Rule .0405(b) of this Subchapter;

- (1) the Basic Law Enforcement Training topics pursuant to Rule .0205(b)(1), (b)(2)(F), (b)(3)(B), (b)(3)(D), (b)(4)(E), (b)(5)(C), (b)(5)(G), (b)(6)(A), and (b)(7) of this Subchapter; and
- (2) achieve a passing score on the Basic Law Enforcement Training comprehensive written examination pursuant to Rule .0406(d) of this Subchapter.

(h) The Division shall waive any training topic in Paragraph ~~(f)(4)(g)(1)~~ of this Rule if the applicant provides documentation indicating he or she has completed substantially equivalent combined military training and experience in that topic.

~~(i)(h)~~ Members of the Air/Army National Guard and Military Reserve Components who have performed as a military police officer for not less than 1,040 hours during the five years preceding the date of application for certification shall be deemed to satisfy the requirements of Paragraph (c)(2) and Paragraph (f)(2) of this Rule.

~~(j)(i)~~ An applicant who, after completing the required training in Paragraph (d)(1) or ~~(f)(4)(g)(1)~~ this Rule, fails to achieve a passing score on the Basic Law Enforcement Training comprehensive written exam may be retested in the units the applicant failed. An applicant who fails three or more units must enroll in and complete with passing scores a subsequent delivery of the Basic Law Enforcement Training course in its entirety in order to be eligible for certification.

~~(k)(j)~~ An active duty military police officer who obtains certification while on active duty under this Rule may retain the certification for the duration of active duty provided the officer continues to perform military police officer duties and complies with the in-service training requirements, as specified in Rule .0105 of this Chapter. An active duty military police officer who is unable to complete annual in-service requirements due to deployment or overseas assignment shall have 12 months from the time the officer returns to the United States in which to complete the in-service training requirements, as specified in Rule .0105 of this Chapter for each year he or she was unable to complete due to overseas assignment. The officer shall retain the certification for a period of one year following separation from active duty.

~~(l)(k)~~ When completing the required training topics specified in Paragraph (d)(1) or Paragraph ~~(f)(4)(g)(1)~~ of this Rule, the individual shall meet all requirements specified in Rule .0203 and Rule .0405 of this Subchapter.

Authority G.S. 17C-2; 17C-6; 17C-10; 93B-15.1.

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0300 - CERTIFICATION OF CRIMINAL JUSTICE OFFICERS

12 NCAC 09C .0310 AGENCY REPORTING OF DRUG SCREENING RESULTS

(a) Every law enforcement officer shall have produced a negative result on a drug screen administered according to the following specifications:

- (1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
- (2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
- (3) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
- (4) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;
- (5) conduct the test within 90 days of certification;
- (6) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples.

(b) Each agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results of required drug screening obtained from applicants and lateral transfers. If the positive result were explained to the satisfaction of the agency's medical review officer, who shall be a licensed physician, the positive results are not required to be reported.

~~(c)(b)~~ Each agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result or refusal, unless the positive result has been explained to the satisfaction of the agency's medical review ~~officer~~ officer, who shall be a licensed physician, to the extent the drug screen conducted conforms to the specifications of this Rule. ~~12 NCAC 09B .0101(5)(a), (b), (c), (d), and (f).~~

~~(d)(e)~~ For reporting purposes, a result is considered "positive" only in those cases where the drug screen reveals the presence of an illegal drug at a level equal to or greater than the threshold value as established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule. ~~12 NCAC 09B .0101(5)(d).~~

~~(e)(d)~~ All written reports required to be submitted to the Criminal Justice Standards Division by this Rule shall contain the individual's name, date of birth, either the date the test was administered or the date of the refusal, and a copy of the drug screen panel with the results of the medical officer review.

Authority G.S. 17C-6; 17C-10.

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to adopt the rule cited as 12 NCAC 09B .0418 and amend the rules cited as 12 NCAC 09B .0304, .0414 and .0415.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>

Proposed Effective Date: July 1, 2023

Public Hearing:

Date: August 10, 2022

Time: 10:00 a.m.

Location: Wake Technical Community College Public Safety Center, 321 Chapanoke Rd., Raleigh, NC 27603

Reason for Proposed Action: To certify Rapid Deployment Instructors as Specialized Instructors.

Comments may be submitted to: Charminique D. Williams, 1700 Tryon Park Drive, Raleigh, NC 27602

Comment period ends: August 10, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

**SECTION .0300 - MINIMUM STANDARDS FOR
CRIMINAL JUSTICE INSTRUCTORS**

**12 NCAC 09B .0304 SPECIALIZED INSTRUCTOR
CERTIFICATION**

(a) The Commission shall issue a Specialized Instructor Certification to an applicant who has developed specific motor skills and abilities by virtue of special training and demonstrated experience in one or more of the following topical areas:

- (1) Subject Control Arrest Techniques;
- (2) First Responder;
- (3) Firearms;
- (4) Law Enforcement Driver Training;
- (5) Physical Fitness;
- (6) Restraint, Control and Defense Techniques (Department of Public Safety, Division of Adult Correction and Juvenile Justice);
- (7) Medical Emergencies (Department of Public Safety, Division of Adult Correction and Juvenile Justice); ~~or~~
- (8) Explosive and Hazardous Materials ~~Emergencies; Emergencies; or~~
- (9) Rapid Deployment.

(b) To qualify for and maintain any Specialized Instructor Certification, an applicant shall possess a valid CPR Certification that includes cognitive and skills testing, through the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council.

(c) An applicant shall achieve a minimum score of 75 percent on the comprehensive written exam, as specified in Rule .0414 of this Subchapter in order to qualify for Specialized Instructor Certification in the following topical areas:

- (1) Subject Control Arrest Techniques;
- (2) Firearms;
- (3) Law Enforcement Driver Training;
- (4) Physical Fitness; and
- (5) Explosive and Hazardous Materials Emergencies.
- (6) Rapid Deployment

(d) To qualify for Specialized Instructor Certification in the Subject Control Arrest Techniques topical area, an applicant shall meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (2) Complete the pertinent Commission-approved specialized instructor course; and
- (3) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(e) To qualify for Specialized Instructor Certification in the First Responder topical area, an applicant shall satisfy one of the following two options:

- (1) The first option is:
 - (A) Hold CPR instructor certification through the American Red Cross, American Heart Association,

American Safety and Health Institute, or National Safety Council;

- (B) Hold, or have held, basic Emergency Medical Technician certification;
- (C) Have completed the Department of Transportation's 40 hour EMT Instructor Course or equivalent within the last three years or hold a North Carolina Professional Educator's License, issued by the Department of Public Instruction; and
- (D) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(2) The second option is:

- (A) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (B) Hold CPR instructor certification through the American Red Cross, American Heart Association, American Safety and Health Institute or National Safety Council;
- (C) Hold, or have held, basic EMT certification; and
- (D) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(f) To qualify for Specialized Instructor Certification in the Firearms topical area, an applicant shall meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (2) Complete the Commission-approved specialized firearms instructor training course; and
- (3) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(g) To qualify for Specialized Instructor Certification in the Law Enforcement Driver Training topical area, an applicant shall meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (2) Complete the Commission-approved specialized driver instructor training course; and
- (3) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(h) To qualify for Specialized Instructor Certification in the Rapid Deployment topical area, an applicant shall meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (2) Complete the pertinent Commission-approved specialized instructor course; and
- (3) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

~~(h)~~(i) To qualify for Specialized Instructor Certification in the Physical Fitness topical area, an applicant shall become certified through one of the following two methods:

- (1) The first method is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
 - (B) complete the Commission-approved specialized physical fitness instructor training course; and
 - (C) obtain the recommendation of a Commission-certified School Director.
- (2) The second method is:
 - (A) Complete the Commission-approved specialized physical fitness instructor training course;
 - (B) obtain the recommendation of a Commission-certified School director or in-service training coordinator; and
 - (C) meet one of the following qualifications:
 - (i) hold a valid North Carolina Professional Educator's License, issued by the Department of Public Instruction, hold a baccalaureate degree in physical education, and be presently teaching in physical education topics; or
 - (ii) be presently instructing physical education topics in a community college, college, or university and hold a baccalaureate degree in physical education.

~~(h)~~(j) To qualify for Specialized Instructor Certification in the Department of Public Safety, Division of Adult Correction and Juvenile Justice Restraint, Control and Defense Techniques topical area, an applicant shall meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (2) Complete the Commission-approved corrections specialized instructor training – controls, restraints, and defensive techniques course; and

- (3) Obtain the recommendation of a Commission-certified school director.

~~(k)~~(k) To qualify for Specialized Instructor Certification in the Department of Public Safety, Division of Adult Correction and Juvenile Justice Medical Emergencies topical area, an applicant shall meet the following requirements:

- (1) Have completed a Commission-certified basic instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise;
- (2) Hold instructor certification in CPR and First Aid by the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council; and
- (3) Obtain the recommendation of a Commission-certified school director.

~~(l)~~(l) To qualify for Specialized Instructor Certification in the Explosive and Hazardous Materials Emergencies topical area, an applicant shall satisfy one of the following two options:

- (1) The first option is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
 - (B) Complete the Commission-approved specialized explosives and hazardous materials instructor training course; and
 - (C) obtain the recommendation of a Commission-certified school director or in-service training coordinator.
- (2) The second option is:
 - (A) have completed the Fire Service Instructor Methodology Course or the equivalent utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise;
 - (B) Complete the Commission-approved specialized explosives and hazardous materials instructor training course; and
 - (C) obtain the recommendation of a Commission-certified school director or in-service training coordinator.

Authority G.S. 17C-6.

SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING

12 NCAC 09B .0414 COMPREHENSIVE WRITTEN EXAM - SPECIALIZED INSTRUCTOR TRAINING

(a) The Commission shall administer a comprehensive written examination within 60 days of the completed required course work for the following courses:

- (1) Specialized Firearms Instructor Training;
- (2) Specialized Driver Instructor Training;
- (3) Specialized Subject Control Arrest Techniques Instructor Training;
- (4) Specialized Physical Fitness Instructor Training;
- (5) Specialized Explosives and Hazardous Materials Instructor Training;
- (6) Specialized Rapid Deployment Instructor Training
- ~~(6)(7)~~ Radar Instructor Training;
- ~~(7)(8)~~ Criminal Justice Time-Distance/Speed Measurement Instrument (TD/SMI) Instructor Training;
- ~~(8)(9)~~ LIDAR Instructor Training;
- ~~(9)(10)~~ Re-Certification Training for Radar Instructors;
- ~~(10)(11)~~ Re-Certification Training for TD/SMI Instructors; and
- ~~(11)(12)~~ Re-Certification Training for LIDAR Instructors.

(b) The examination shall ~~be an objective test covering~~ cover the topic areas contained in the certified course curriculum.

(c) The Commission's representative shall submit to the school director within five business days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall achieve a passing score on the comprehensive written examination if he or she achieves 75 percent correct answers.

(e) A trainee who fails to achieve a minimum score of 75 percent on the Commission's comprehensive written examination shall enroll and complete a subsequent offering of the specialized instructor training course before further examination may be permitted.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0415 SATISFACTION OF MINIMUM TRAINING - SPECIALIZED INSTRUCTOR

(a) To acquire successful completion of the "Specialized Firearms Instructor Training," "Specialized Driver Instructor Training," "Specialized Subject Control Arrest Techniques Instructor Training," "Specialized Physical Fitness Instructor," "Specialized Rapid Deployment Instructor" and the "Specialized Explosives and Hazardous Materials Instructor Training" courses, the trainee shall:

- (1) ~~satisfactorily~~ complete all required coursework as specified in the course abstract of the "Specialized Firearms Instructor Training Manual," the "Specialized Driver Instructor Training Manual," the "Specialized Subject Control Arrest Techniques Instructor Training Manual," the "Specialized Physical Fitness Instructor Training Manual," the "Specialized

Rapid Deployment Instructor Training Manual" and the "Specialized Explosives and Hazardous Materials Instructor Training Manual" as published by the North Carolina Justice Academy; and

- (2) demonstrate proficiency in all required motor-skill and performance subjects as specified in each specialized instructor training manual.

(b) Should a trainee fail to meet the minimum criteria on a motor skill or performance area, he or she shall be authorized one opportunity for a ~~re-test. re-test at the discretion of the school director.~~ Such re-test must be completed during the original course and prior to the trainee's being administered the comprehensive written examination. Failure to meet the required criteria on a re-test requires enrollment in a subsequent course.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0418 SPECIALIZED RAPID DEPLOYMENT INSTRUCTOR TRAINING

(a) The instructor training course for Specialized Rapid Deployment Instructor Training Certification shall consist of a minimum of 24 hours of classroom and scenario-based training instruction plus time required to complete the tasks associated with Active Shooter events presented during a continuous period of not more than one week.

(b) Each Specialized Rapid Deployment Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice rapid deployment instructor in a Basic Law Enforcement Training (BLET) Course or a law enforcement officer in-service training program.

(c) Each applicant for specialized rapid deployment instructor training shall:

- (1) have successfully completed the criminal justice rapid deployment instructor training course;
- (2) possess current General Instructor certification,
- (2) possess a current CPR certification, and
- (3) present a written endorsement by either

- (A) a certified school director indicating the student may be utilized to instruct Rapid Deployment in the Basic Law Enforcement Training Course; or
- (B) a department head, certified school director, or in-service training coordinator, indicating the student may be utilized to instruct rapid deployment in a law enforcement officer in-service training program; and

(d) each Specialized Rapid Deployment Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- | | | |
|------------|--|----------------|
| <u>(1)</u> | <u>Orientation/Pretest</u> | <u>1 Hour</u> |
| <u>(2)</u> | <u>Instructor Introduction/Elevator Speech</u> | <u>1 Hour</u> |
| <u>(3)</u> | <u>Rapid Deployment BLET</u> | <u>3 Hours</u> |
| <u>(4)</u> | <u>Explosive Device Recognition</u> | <u>1 Hour</u> |

- (5) Scenario Based Training Deployment 1 Hour
- (6) Scenario Development – Computer Room 3 Hour
- (7) Practical Exercises 9 Hours
- (8) Scenario De Briefs 1 Hour
- (9) Video Review 3 Hours
- (10) Post Testing and Course Closing 1 Hour

(e) The "Specialized Rapid Deployment Instructor Training Manual" published by the North Carolina Justice Academy shall be the curriculum for the Specialized Firearms Instructor Training course. Copies of this publication may be inspected at the:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the

Academy at the following address:
North Carolina Justice Academy
Post Office Box 99
Salemburg, North Carolina 28385

Authority G.S. 17C-6.

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Private Protective Services Board intends to amend the rules cited as 14B NCAC 16 .0806, .0904, and .0911.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdps.gov/dps-services/permits-licenses/private-protective-services-board>

Proposed Effective Date: August 1, 2022

Public Hearing:

Date: April 26, 2022

Time: 2:00 p.m.

Location: 3101 Industrial Dr., Suite 104, Raleigh, NC 27609

Reason for Proposed Action: *The Board adopted first emergency, then temporary and finally permanent rule amendments to extend renewal deadlines for firearm registration permits and firearm trainer certificates during times of a declared state of emergency and is now amending the rule to afford the same extension for an unarmed trainer certificate. Further, the period of time for extension is being increased from 60 to 90 days. Note: The changes to 14B NCAC 16 .0911(a)(2), (3) and new (4), and new (b) are currently pending in the rulemaking process.*

Comments may be submitted to: Paul Sherwin, 3101 Industrial Dr., Suite 4, Raleigh, NC 27609; phone (919) 788-5320; fax (919) 715-0370; email Paul.sherwin@ncdps.gov

Comment period ends: May 31, 2022

Procedure for Subjecting a Proposed Rule to Legislative

Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (>= \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 16 - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .0800 - ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT

14B NCAC 16 .0806 RENEWAL OF ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT

(a) Each applicant for renewal of an armed security guard firearm registration permit identification card or his or her employer shall complete an online form on the website provided by the Board. This online form shall be submitted not more than 90 days prior to expiration of the applicant's current armed registration and shall be accompanied by:

- (1) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (2) upload online a statement of the results of a statewide criminal history search obtained by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 12 months;
- (3) the applicant's renewal fee, along with the four dollar (\$4.00) convenience fee and credit card transaction fee;
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of

Investigation, collected online by the Private Protective Services Board;

- (5) a statement signed by a certified trainer that the applicant has successfully completed the training requirements of Rule .0807 of this Section; and
- (6) a completed affidavit form and public notice statement form.

(b) The employer of each applicant for a registration renewal shall give the applicant a copy of the online application and a copy of the completed affidavit form to serve as a record of application for renewal and shall retain a copy of the application, including affidavit in the guard's personnel file in the employer's office.

(c) Members of the armed forces whose registration is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay the registration renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

(d) A registered armed security guard may utilize a dedicated light system or gun-mounted light for requalification.

(e) During a national or State declared state of emergency that restricts or prohibits a registered armed security guard from requalifying, the Board shall, upon written request to the Director, extend the deadline for requalification up to ~~60~~ 90 days beyond the effective period of the state of emergency. Any registration renewed pursuant to this Paragraph shall be issued conditionally and shall automatically expire on the ~~60th~~ 90th day if requalification requirements have not been met.

Authority G.S. 74C-5; 74C-13.

SECTION .0900 – TRAINER CERTIFICATE

14B NCAC 16 .0904 RENEWAL OF A FIREARMS TRAINER CERTIFICATE

(a) Each applicant for renewal of a firearms trainer certificate shall complete an online renewal form on the website provided by the Board. This form shall be submitted online not less than 30 days prior to the expiration of the applicant's current certificate and shall be accompanied by:

- (1) uploaded online a certificate of successful completion of a firearms trainer refresher course approved by the Board and the Secretary of Public Safety consisting of a minimum of eight hours of classroom and practical range training in safety and maintenance of the applicable firearm (i.e. handgun, shotgun, or rifle), range operations, control and safety procedures, and methods of firing. This training shall be completed within 180 days of the submission of the renewal application;
- (2) uploaded online a statement of the results of a criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the

applicant has resided within the preceding 48 months;

- (3) the applicant's renewal fee, along with the four dollar (\$4.00) convenience fee and credit card transaction fee; and
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board.

(b) Members of the armed forces whose certification is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay the certification renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

(c) Any firearms trainer who fails to qualify with the minimum score during the refresher course shall not continue to instruct during the period between the failure to qualify and the expiration of his or her permit.

(d) The holder of a firearms trainer certificate may utilize a dedicated light system or gun mounted light for personal requalification.

(e) During a national or State declared state of emergency that restricts or prohibits a certified firearms trainer from requalifying, the Board shall, upon written request to the Director, extend the deadline for requalification up to ~~60~~ 90 days beyond the effective period of the state of emergency. Any certificate renewed pursuant to this Paragraph shall be issued conditionally and shall automatically expire on the ~~60th~~ 90th day if requalification requirements have not been met.

Authority G.S. 74C-5; 74C-8.1(a); 74C-13.

14B NCAC 16 .0911 RENEWAL OF AN UNARMED TRAINER CERTIFICATE

(a) Each applicant for renewal of an unarmed trainer certificate shall complete an online renewal form on the website provided by the Board. This form shall be submitted online not less than 30 days prior to the expiration of the applicant's current certificate. In addition, the applicant shall include the following:

- (1) the renewal fee set forth in Rule .0903(a)(3) of this Section and collected online as part of the application process;
- (2) a certificate of completion of a minimum of 16 hours of Board developed armed or unarmed instruction performed during the current unarmed trainer certification period; ~~and~~
- (3) a statement verifying the classes taught during the current unarmed trainer certification period on a form provided by the Board as part of the online application ~~process-~~ process; and
- (4) uploaded online a statement of the results of a criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the

applicant has resided within the preceding 24 months.

(b) If there is a criminal charge pending against the applicant for renewal that constitutes a deniable offense under G.S. 74C-8(d)(2), consideration of the application shall be deferred until the criminal charge is adjudicated. The deadline for completion of any requirement mandated by the Board's law and rules, such as continuing education or firearms re-qualification, will be stayed during the period of deferral.

(b)(c) Members of the armed forces whose certification is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the certification renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

(d) During a national or State declared state of emergency that restricts or prohibits an unarmed trainer from performing the instruction required by Subparagraph (a)(2) of this Rule, the Board shall, upon written request to the Director, extend the deadline for renewal up to 90 days beyond the effective period of the state of emergency. Any certificate renewed pursuant to this Paragraph shall be issued conditionally and shall automatically expire on the 90th day if instruction requirements have not been met.

Authority G.S. 74C-8; 74C-9; 74C-11; 74C-13.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Alarm Systems Licensing Board intends to amend the rule cited as 14B NCAC 17 .0204.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://ncdps.gov/dps-services/permits-licenses/alarm-system-licensing-board>

Proposed Effective Date: August 1, 2022

Public Hearing:

Date: April 26, 2022

Time: 2:00 p.m.

Location: 3101 Industrial Dr., Suite 104, Raleigh, NC 27609

Reason for Proposed Action: *The rule amendment establishes a new procedure to allow reinstatement where a licensee failed to renew. (Currently, the licensee would have to complete the application process for a new licensee.)*

Comments may be submitted to: Paul Sherwin, 3101 Industrial Dr., Suite 4, Raleigh, NC 27609; phone (919) 788-5320; fax (919)-715-0370; email Paul.sherwin@ncdps.gov

Comment period ends: May 31, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the

rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 17 - ALARM SYSTEMS LICENSING BOARD

SECTION .0200 – PROVISIONS FOR LICENSEES

14B NCAC 17 .0204 RENEWAL OR REINSTATEMENT OF LICENSE

(a) Each applicant for a license renewal shall submit an online renewal application on the website provided by the Board. This online application shall be submitted not less than 30 days prior to expiration of the applicant's current license and shall be accompanied by:

- (1) statements of the result of a local statewide criminal history records search by the reporting services service designated by the Board pursuant to G.S. 74D-2.1 for any state where the applicant has resided within the ~~preceding~~ preceding 24 months;
- (2) the applicant's renewal fee as set forth in .0203(a)(2); and
- (3) proof of liability insurance pursuant to G.S. 74D-9.

(b) Applications for renewal shall be submitted not less than 30 days before the expiration date of the license. No renewal shall be granted more than 90 days after the date of expiration of a license.

(c) Applications for renewal submitted after the expiration date of the license shall be accompanied by the late renewal fee established by Rule .0203 of this Section and shall be submitted not later than 90 days after the expiration date of the license.

(d) If a licensee has maintained a license at least two years and fails to renew the license within 90 days of the expiration date, then allows the license to expire, the license may be re-issued if an online reinstatement application is made submitted within one year of the expiration date. The reinstatement application must include accompanied by the items required in Subparagraphs (a)(1) through (3) of this Rule, the late fee required by Paragraph (c) of this Rule, evidence of compliance with the electrical

licensing requirements of Rule .0210 of this Section, and documentation of completion within the previous two years of continuing education as required by Section .0500 of this Chapter. If the license reinstatement is approved, the license period shall be prorated to expire on the date the previous license would have expired, had the license been renewed on time. The licensee shall remain responsible for compliance with the Board's law and administrative rules during the period of lapse.

(e) The Director shall review and approve or recommend denial of an application for renewal or reinstatement. All denials shall be submitted to the Board for a final Board decision.

(f) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall be granted the same extension of time to pay the license renewal fee and to complete the continuing education requirements prescribed in Section .0500 of this Chapter. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

Authority G.S. 74D-2(a); 74D-5; 74D-7; 93B-15.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 46 – BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to amend the rule cited as 21 NCAC 46 .1317.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncbop.org/rulemakings.htm

Proposed Effective Date: September 1, 2022

Public Hearing:

Date: June 20, 2022

Time: 9:00 a.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, North Carolina 27517

Reason for Proposed Action: *The Board of Pharmacy proposes to amend its definition section to reflect a change in terminology announced by the Accreditation Council for Pharmacy Education ("ACPE"). The Board has different processes for graduates of pharmacy schools who are regulated by the U.S. Department of Education (which have previously been referred to as "accredited" by ACPE) and for graduates of foreign pharmacy schools (which have previously been referred to as "certified" by ACPE). ACPE has announced that, beginning January 1, 2023, it will refer to foreign pharmacy schools as "international-accredited." There is no pertinent change in either the ACPE process or the Board's process for either type of school -- merely a terminology change. The current rule defines an "approved school or college of pharmacy" as one "accredited by the American Council on Pharmaceutical Education." The Board proposes to amend the rule to avoid any potential confusion that*

might be caused by ACPE's change in terminology. In addition, the rule is proposed for amendment to reflect a change in ACPE's name from "American Council on Pharmaceutical Education" to "Accreditation Council for Pharmacy Education." The actual organization has not changed.

Comments may be submitted to: Jay Campbell, 6015 Farrington Rd, Suite 201, Chapel Hill, NC 27517; email ncboprulemaking@ncbop.org

Comment period ends: June 20, 2022

Procedure for Subjecting a Proposed Rule to Legislative

Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

SECTION .1300 - GENERAL DEFINITIONS

21 NCAC 46 .1317 DEFINITIONS

Terms used in this Chapter and G.S. 90, Article 4A, are defined as follows, unless otherwise defined in G.S. 90, Article 4A:

- (1) Ambulation assistance equipment. Devices that aid in walking, excluding canes, crutches, and walkers.
- (2) Approved school or college of pharmacy. A school or college of pharmacy accredited by the American Accreditation Council for Pharmacy Education ~~on Pharmaceutical Education~~ ("ACPE") through its PharmD Program Accreditation Standards. It does not include any accreditation, certification or other designation through the ACPE's International Services Program.
- (3) Diagnostic equipment. Equipment used to record physiological information while a person goes about normal daily living or while asleep in order to document a disease process. Early pregnancy tests (EPTs), thermometers,

- glucose meters, and cholesterol equipment are not included as diagnostic equipment.
- (4) Drug regimen review or drug use review. A review of a patient's record by a licensed pharmacist that involves interpretation and evaluation of the drug therapy and other pharmaceutical care services to achieve intended medication outcomes and minimize negative effects of drug therapy.
- (5) Employee. A person who is or would be considered an employee under the North Carolina Workers' Compensation Act. This definition applies to locations both within and outside of this State holding pharmacy or device and medical equipment permits and without regard to the number of persons employed by the permit holder.
- (6) Graduate of an approved school of college of pharmacy. A person who has received an undergraduate professional degree in pharmacy from an approved school or college of pharmacy.
- (7) Health Care Facility. One of the following organizations whose primary purpose is to provide a physical environment for patients to obtain health care services:
- (a) a hospital;
 - (b) a long-term care facility;
 - (c) a mental health facility;
 - (d) a drug abuse treatment center;
 - (e) an assisted living facility;
 - (f) an ambulatory surgical center;
 - (g) a penal institution; or
 - (h) a hospice.
- (8) Health Care Facility Pharmacy. A pharmacy permitted by the Board that provides services to patients of a Health Care Facility.
- (9) Internet pharmacy.
- (a) A pharmacy that maintains an Internet web site for the purpose of selling or distributing prescription drugs; or
 - (b) A pharmacy that uses the Internet, either itself, or through agreement with a third party, to communicate with or obtain information from patients; uses such communication or information, in whole or in part, to solicit, fill or refill prescriptions; or otherwise uses such communication or information, in whole or in part, to engage in the practice of pharmacy.
- Notwithstanding Sub-items (a) and (b) above, a pharmacy shall not be deemed an Internet pharmacy if it maintains each Internet web site for the following purposes only:
- (i) To post advertisements that do not attempt to facilitate, directly or through agreement with a third party, an actual transaction involving a prescription drug;
 - (ii) To allow a patient to communicate a request for a refill of a valid prescription originally filled by the pharmacy that maintains the Internet website;
 - (iii) To allow a customer to research drug interactions and clinical pharmacology information; or
 - (iv) To allow a patient to send an electronic mail message to a pharmacist licensed in North Carolina.
- (10) Medication Order. An order for a drug, device, or medical equipment for a patient from a person authorized by law to prescribe them.
- (11) Mobility equipment. Devices that aid a person in self-movement other than walking, including manual or power wheelchairs and scooters.
- (12) North Carolina resident or resident of North Carolina. Any patient who is a temporary or permanent resident of the State of North Carolina or present in the State of North Carolina at the time a drug, device, or medical equipment is dispensed to that person.
- (13) Oxygen and respiratory care equipment. Equipment or devices used to administer oxygen or other legend drugs, maintain viable airways, or monitor cardio-respiratory conditions or events, including the following:
- (a) compressed medical gases;
 - (b) oxygen concentrators;
 - (c) liquid oxygen;
 - (d) nebulizers;
 - (e) compressors;
 - (f) aerosol therapy devices;
 - (g) portable suction machines;
 - (h) nasal continuous positive airway pressure (CPAP) machines;
 - (i) Bi-phasic positive pressure devices (BiPAP);
 - (j) infant monitors, such as apnea monitors and cardio-respiratory monitors;
 - (k) positive and negative pressure mechanical ventilators; and
 - (l) pulse oximeters.
- (14) Patient medication profile, patient profile, or pharmacy profile. A list of all medications prescribed for or dispensed to a patient.
- (15) Pharmacist-Manager. The person who accepts responsibility for the operation of a pharmacy in conformance with all statutes and rules pertinent to the practice of pharmacy and

- distribution of drugs by signing the permit application, its renewal, or addenda thereto.
- (16) **Pharmacy Intern.** Any person who is registered with the Board under the internship program of the Board to acquire pharmacy experience or enrolled in approved academic internship programs. A pharmacy intern working under a pharmacist preceptor or supervising pharmacist may, while under supervision, perform all acts constituting the practice of pharmacy.
- (17) **Rehabilitation environmental control equipment.** Equipment or devices that permit a person with disabilities to control his or her immediate surroundings.
- (18) **Undergraduate professional degree in pharmacy.** A Bachelor of Science in Pharmacy or a Doctor of Pharmacy degree.

Authority G.S. 90-85.3; 90-85.6; 90-85.13; 90-85.14; 90-85.15; 90-85.21; 90-85.21A; 90-85.22; 90-85.26; 90-85.32; 90-85.33; 90-85.34; 90-85.38; 90-85.40.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to repeal the rule cited as 21 NCAC 46 .2403.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncbop.org/rulemakings.htm

Proposed Effective Date: September 1, 2022

Public Hearing:

Date: June 20, 2022

Time: 9:00 a.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, North Carolina 27517

Reason for Proposed Action: *The Department of Health and Human Services, through State Health Director Betsy Tilson and Assistant Secretary for Public Health Mark Benton, has requested that the Board of Pharmacy repeal this rule as unnecessary. The rule publishes a formulary of certain drugs that registered nurses*

in local health departments may dispense. The formulary is a means by which the Department of Health and Human Services (subject to agreement by the Board of Pharmacy) can communicate to registered nurses in local health departments (which DHHS essentially oversees) which drugs they may dispense. DHHS has more effective ways than this rule to provide notice to those health department employees.

Comments may be submitted to: Jay Campbell, 6015 Farrington Rd, Suite 201, Chapel Hill, NC 27517; email ncboprulmaking@ncbop.org

Comment period ends: June 20, 2022

Procedure for Subjecting a Proposed Rule to Legislative

Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

**SECTION .2400 - DISPENSING IN HEALTH
DEPARTMENT**

**21 NCAC 46 .2403 DRUGS AND DEVICES TO BE
DISPENSED**

Authority G.S. 90-12.7; 90-85.6; 90-85.34A; 115C-375.2A.

APPROVED RULES

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on February 17, 2022 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT****ADMINISTRATION, DEPARTMENT OF**

<u>Definitions</u>	01 NCAC 05A .0112*	36:10 NCR
<u>Contracting Requirements</u>	01 NCAC 05B .0301*	36:10 NCR
<u>Solicitation Documents</u>	01 NCAC 05B .0314*	36:10 NCR
<u>Terms and Conditions</u>	01 NCAC 05B .0318*	36:10 NCR
<u>Contract Terms</u>	01 NCAC 05B .0319*	36:10 NCR
<u>Contract Extensions</u>	01 NCAC 05B .0320*	36:10 NCR
<u>Factors for Contract Extension or Renewal</u>	01 NCAC 05B .0321*	36:10 NCR
<u>General Delegations</u>	01 NCAC 05B .1604	36:10 NCR

SOIL AND WATER CONSERVATION COMMISSION

<u>Objectives</u>	02 NCAC 59A .0101*	35:24 NCR
<u>Address</u>	02 NCAC 59A .0102*	35:24 NCR
<u>Definitions</u>	02 NCAC 59A .0103*	35:24 NCR
<u>Supervisor Vacancies</u>	02 NCAC 59A .0104	35:24 NCR
<u>General</u>	02 NCAC 59A .0201*	35:24 NCR
<u>Required Basic Training</u>	02 NCAC 59A .0202*	35:24 NCR
<u>Continuing Training Requirements</u>	02 NCAC 59A .0203*	35:24 NCR
<u>Supervisor Training Credits</u>	02 NCAC 59A .0204*	35:24 NCR
<u>Supervisor Removal Procedures and Reporting</u>	02 NCAC 59A .0301*	35:24 NCR
<u>Inquiry Committee</u>	02 NCAC 59A .0302*	35:24 NCR

NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

<u>Definition of Terms</u>	07 NCAC 13B .0101*	36:10 NCR
<u>Permits</u>	07 NCAC 13B .0104*	36:10 NCR
<u>Rock Climbing</u>	07 NCAC 13B .0204*	36:10 NCR
<u>Bicycles</u>	07 NCAC 13B .0507*	36:10 NCR
<u>Camping</u>	07 NCAC 13B .0602*	36:10 NCR
<u>Sports and Games: When Permitted</u>	07 NCAC 13B .0701*	36:10 NCR
<u>Horses</u>	07 NCAC 13B .0702*	36:10 NCR
<u>Firearms: Weapons: Explosives</u>	07 NCAC 13B .0901*	36:10 NCR
<u>Smoking</u>	07 NCAC 13B .0905*	36:10 NCR
<u>Animals at Large</u>	07 NCAC 13B .1004*	36:10 NCR
<u>Commercial Enterprises</u>	07 NCAC 13B .1101	36:10 NCR
<u>Commercial Photography, Filming and Recording</u>	07 NCAC 13B .1102	36:10 NCR
<u>Public Assemblies and Meetings: Special Activity Permit</u>	07 NCAC 13B .1105	36:10 NCR
<u>Closing and Opening Hours; Restricted Use Areas</u>	07 NCAC 13B .1201*	36:10 NCR
<u>Aviation</u>	07 NCAC 13B .1204*	36:10 NCR
<u>Reservations</u>	07 NCAC 13B .1205*	36:10 NCR

PRIVATE PROTECTIVE SERVICES BOARD

<u>Definitions</u>	14B NCAC 16 .0103*	36:06 NCR
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GENERAL CONTRACTORS, LICENSING BOARD FOR

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COSMETIC ART EXAMINERS, BOARD OF

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DENTAL EXAMINERS, BOARD OF

<u>Reports from the Controlled Substance Reporting System</u>	21 NCAC 16U .0103*	36:08 NCR
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HEARING AID DEALERS AND FITTERS BOARD

<u>Definitions and Interpretations</u>	21 NCAC 22A .0401*	36:09 NCR
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TITLE 01 - DEPARTMENT OF ADMINISTRATION

- (1) "Agency" or "Agencies" means all departments, institutions, boards, commissions, universities, community colleges, or other units of the State subject to G.S. 143, Article 3, unless specifically exempted by statute.

01 NCAC 05A .0112 DEFINITIONS

For the purpose of this Chapter:

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| <p>(2) "Best and Final Offer" ("BAFO") is a document that memorializes the details of Negotiations between the State and a Vendor and mutually modifies the Vendor's Offer.</p> <p>(3) "Best Value Procurement" shall have the same meaning as in G.S. 143-135.9.</p> <p>(4) "Bid Value Benchmark" or "General Delegation" means the maximum authorized expenditure set pursuant to G.S. 116-31.10, G.S. 115D-58.14, or G.S. 143-52(a) and 143-53.1 for which an Agency may contract to purchase Goods or Services without obtaining prior approval for the purchase from the Division.</p> <p>(5) "Clarification" means communications between the State and a Vendor that occur after receipt of a Vendor's Offer made for the purpose of eliminating irregularities, informalities, or apparent clerical mistakes in an Offer. A Clarification may also be used in order for the State to interpret an Offer or Offers or to facilitate the State's evaluation of all Offers. A Clarification shall not be used to cure material deficiencies in an Offer, alter the scope of an Offer, or to negotiate.</p> <p>(6) "Consultant Services" means contracted work or tasks performed by a Vendor or independent contractor possessing specialized knowledge, experience, expertise, and professional qualifications to investigate a Purchasing Agency's defined problems or projects and to provide counsel, review, analysis, or advice in formulating or implementing improvements in programs or Services. This includes improvements related to the organization, planning, directing, control, evaluation, and operation of a program, Agency or department.</p> <p>(7) "Competition" in purchasing exists when the available market for the Goods or Services to be acquired consists of more than one Responsible Vendor that is qualified and willing to submit an Offer.</p> <p>(8) "Contract" means any type of agreement entered into by Agencies, regardless of what it may be titled or called, setting out the obligations of the parties concerning a Procurement of Goods or Services.</p> <p>(9) "Contract Term" means the time period in which a Contract is active and in effect.</p> <p>(10) "Deficiency" means either a failure to meet a stated Requirement or a combination of weaknesses in an Offer that increases the risk that a Vendor will be unable to meet its contractual obligations.</p> <p>(11) "Division" means the Division of Purchase and Contract.</p> <p>(12) "Electronic" means electrical, digital, magnetic, optical, electromagnetic, or any other similar technology.</p> | <p>(13) "Electronic Bid System" means the Division's Electronic system used variously to advertise Solicitations, notify Vendors, conduct Reverse Auctions, and post Contract awards.</p> <p>(14) "Emergency Situations" means unforeseen circumstances as stated in G.S. 143-57, that endanger lives, property, or the continuation of a vital program such as those essential for health or safety, as determined by the Purchasing Agency Director, and that can be rectified only by immediate purchases or rental of Goods or Services.</p> <p>(15) "Extension" means an additional Contract Term not provided for in the Contract that is mutually agreed to by the State and all Vendor parties in a Contract amendment.</p> <p>(16) "Goods" means any tangible property, including all equipment, materials, supplies, and commodities. Where the printing is not the predominant aspect of a service contract, acquisition of printing shall be considered the purchase of Goods under these Rules.</p> <p>(17) "Goods Contract" means any agreement involving the Procurement of Goods from a Vendor, but that may also have ancillary Services aspects.</p> <p>(18) "Initial Contract Term" means the initial period for performance under a Contract after which the Contract will either terminate or be extended pursuant to a Renewal or Extension.</p> <p>(19) "Negotiation" means oral or written communications in a waived or open competitive Procurement between the State and Vendor undertaken with the intent of allowing a Vendor to revise its Offer. Revisions may apply to price, schedule, technical requirements, or other terms of the proposed Contract. Negotiations are specific to each Offer and shall be conducted to maximize the State's ability to obtain best value based on the evaluation factors set forth in the Solicitation. Negotiations shall be memorialized in any resulting Contract.</p> <p>(20) "Offer" means a bid, proposal, BAFO, or other proposition submitted in response to any Solicitation, Negotiation, or other approved acquisition process, as well as responses to solution-based Solicitations and government-Vendor partnerships.</p> <p>(21) "Personal Services Contract" has the same definition as in G.S. 143-48.6(b). A Personal Services Contract is a type of Service Contract.</p> <p>(22) "Pressing Need" means a need arising from unforeseen causes as stated in G.S. 143-57, outside the State's control, including delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work, as determined by the Purchasing Agency Director, which can be satisfied only by</p> |
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- immediate purchase or rental of Goods or Services.
- (23) "Price" means the amount paid by the State to a Vendor for Goods or Services.
- (24) "Procurement" means the process of acquiring Goods or Services.
- (25) "Professional Services" means the contracted work or tasks performed by a Vendor or independent contractor possessing specialized knowledge, experience, expertise, and professional qualifications, who provides ongoing Services. A Professional Services Contract is a type of Service Contract.
- (26) "Progressive Award" means an award for portions of a definite quantity requirement to more than one Vendor. Each portion is for a definite quantity and the sum of the portions is the total quantity procured. A Progressive Award may be in the Purchasing Agency's best interest when awards to more than one Vendor for different amounts of the same item are needed to obtain the total quantity or the time or times of delivery required.
- (27) "Public Funds" means any amount received, held, disbursed, or otherwise subject to or accounted for in accordance with the State Budget Act and amounts used to acquire Goods and Services that are required to be purchased in accordance with Article 3 of Chapter 143 of the General Statutes.
- (28) "Purchasing Agency" or "Purchaser" means the Agency that issues a purchase order or otherwise acquires Goods or Services through a purchasing process.
- (29) "Recalled Bid" means a Bid that is rescinded by the Vendor after the bid opening but prior to a contract being awarded.
- (30) "Renewal" means an optional term provided for in the Contract that can be exercised as of right by the State.
- (31) "Responsible Vendor" means a Vendor who demonstrates in its Offer that it has the capability to perform the requirements of the Solicitation.
- (32) "Responsive Offer" means an Offer that conforms to the Requirements of the Solicitation.
- (33) "Requirement" is a provision of a Solicitation and any resulting Contract that prescribes the nature or details of a standard, process, or procedure that must be complied with by the Vendor before any further evaluation of the Offer is conducted by the State.
- (34) "Sealed Offer" means an Offer that remains unopened until the public opening time stated in the Solicitation.
- (35) "Secretary" means the Secretary of the North Carolina Department of Administration.
- (36) "Service Contract" means any agreement for compensation involving Services and requiring a particular or specialized knowledge, experience, expertise, or similar capabilities in the Vendor. Contracts for Consultant Services, Professional Services, and Personal Services are also examples of a Service Contract. A Service Contract may also involve the ancillary purchase of Goods.
- (37) "Services" means the tasks and duties undertaken by a Vendor in a Service Contract to fulfill the Requirements and Specifications of the Contract.
- (38) "Signature" means a manual autograph, an Electronic identifier, or an Electronic authentication technique, that is intended by the person using it to have the same force and effect as a manual signature.
- (39) "Small Purchase" means the purchase of Goods and Services not covered by a Term Contract where the expenditure of Public Funds including Extensions and Renewals is equal to or less than the Small Purchase Benchmark amount, pursuant to 01 NCAC 05B .0301.
- (40) "Solicitation" means to request or invite Vendor Offers, or to request information regarding the acquisition of Goods and Services, through the use of Solicitation Documents.
- (41) "Solicitation Documents" means a Written or Electronic (a) Invitation for Bids (IFB); (b) Request for Quotations (RFQ); (c) Request for Proposals (RFP); (d) Best and Final Offer (BAFO); or (e) other documents to invite Vendor Offers, including all mutually agreed attachments and items incorporated by reference therein.
- (42) "Specification" means any description of the physical or functional characteristics of, or the nature of, the Goods or Services to be procured.
- (43) "SPO" means the State Procurement Officer who is also the Director of the Division.
- (44) "Tabulation" means a list of Vendors submitting Offers in response to a particular Solicitation and, if applicable, the prices offered as allowed under G.S. 143-52(a).
- (45) "Technical Offer" means a proposal by a Vendor in response to the Solicitation, absent the price content.
- (46) "Term Contract" is a binding agreement between purchaser and seller to buy and sell certain Goods or Services at certain prices, for an agreed Contract Term, and under specific terms and conditions.
- (47) "Total Cost of Ownership" means a summation of all purchase, operating, and related costs to be expended during the projected lifetime of a Good or Service or both.
- (48) "Vendor" means a contractor, supplier, bidder, company, independent contractor, firm,

- corporation, partnership, individual, or other entity submitting a response to a Solicitation.
- (49) "Voided Bid" means an Electronic bid that was submitted by a Vendor in connection with an Electronic Solicitation that has been cancelled, the bids voided and not opened electronically.
- (50) "Weakness" means a flaw in the Offer that increases the risk of unsuccessful contract performance.
- (51) "Withdrawal" or "Withdrawn Bid" means a Bid that is rescinded by the Vendor prior to the bid opening.
- (52) "Written" or "Writing" means a communication recorded in a medium of expression that can be preserved, read, retrieved, and reproduced for an indefinite period of time, including information in a form that is electronically transmitted and stored.

History Note: Authority G.S. 143-48.3; 143-48.6; 143-49; 143-52; 143-53; 143-53.1; 143-57; 143-135.9; Eff. February 1, 1996; Amended Eff. April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. March 1, 2022; November 1, 2021; October 1, 2019.

01 NCAC 05B .0301 CONTRACTING REQUIREMENTS

Except where a waiver, special delegation, exemption, or an emergency purchase is permitted under Rule .1401, .1505(b), or Section .1600 of this Subchapter, all purchases involving the expenditure of Public Funds made by an Agency for Goods or Services not covered by Statewide Term Contracts, shall comply with the provisions of Rule .0314 of this Subchapter, and the following:

- (1) Small Purchases.
 - (a) A Small Purchase, as defined in 01 NCAC 05A .0112, is the purchase of Goods and Services, where the total Contract value, including the amounts of Extensions and Renewals, is equal to or less than the Small Purchase Benchmark as set by the SPO.
 - (b) The Small Purchase Benchmark value shall be twenty five thousand dollars (\$25,000) in 2021 dollars. The SPO shall adjust the Small Purchase value for inflation in June of odd-numbered years using the Consumer Price Index for All Urban Consumers (CPI-U), all items in U.S. city average, not seasonally adjusted. The inflation change shall be calculated by dividing the CPI-U index value in May of the current year by the index value from May of two years prior.

- (c) The executive officer of each Agency, or his or her designee, shall establish written internal policies for making Small Purchases, which shall include provisions to encourage and promote the use of historically underutilized businesses as defined in G.S. 143-128.4 in purchasing Goods and Services. The procedures shall be made available to the SPO upon request such as part of a compliance review, complaint, or other inquiry.
- (d) The Purchasing Agency shall award Contracts for Small Purchases.
- (e) An Agency may advertise Small Purchase Solutions through the Electronic Bid System maintained by the Division and may utilize Division Solicitation Documents as specified in Rule .0314 of this Section.
- (2) Informal Bidding Purchases.
 - (a) Where the total Contract value, including the amounts of Extensions and Renewals, involves an expenditure of Public Funds exceeding the Small Purchase Benchmark in Item (1) of this Rule, and up to the Bid Value Benchmark established for a university under the provisions of G.S. 116-31.10, or the General Delegation limit for an Agency established by the SPO under the provisions of G.S. 143-53(a)(2) and G.S. 143-53.1, the following procedures shall be utilized:
 - (i) Competition shall be solicited, but the Solicitation of Sealed Offers is not required. Agencies may utilize the Division's Electronic Bid System to advertise Solicitations subject to this Subsection or to solicit Vendor Offers.
 - (ii) Division Solicitation Documents requesting or inviting offers shall be issued; and
 - (iii) Division Solicitation Documents and any resulting Contract shall include Contract language and terms and conditions as set forth in Rules .0314 and .0318 of this Section, and may be found on the Division's webpage. Additional terms and conditions used shall not conflict with the Division's

- standard terms and conditions as set forth in Rule .0314 of this Section.
- (b) Contracts for purchases valued less than a university's Bid Value Benchmark or an Agency's General Delegation shall be awarded by the Purchasing Agency.
 - (c) Purchasing agencies shall encourage and promote the use of historically underutilized businesses as defined in G.S. 143-128.4 in purchasing Goods and Services.
- (3) Formal Bidding Procedure.
- (a) Where the total Contract value, including the amounts of any Extensions and Renewals, involve an expenditure of Public Funds in excess of the Bid Value Benchmark established under G.S. 116-31.10, G.S. 115D-58.14, or the General Delegation established by the SPO under G.S. 143-53(a)(2) and G.S. 143-53.1, the competitive bidding procedure as defined in G.S. 143-52 shall be utilized as follows:
 - (i) Competition shall be solicited;
 - (ii) Division Solicitation Documents requesting or inviting offers shall be issued by the Purchasing Agency;
 - (iii) Solicitation Documents and any resulting Contract shall include contract language and terms and conditions as set forth in Rules .0314 and .0318 of this Section, and may be found on the Division's webpage, unless prior written approval is obtained from the Division for unusual requirements, such as for unique, complex, or highly technical Procurements. If additional terms and conditions for unusual requirements are used, they shall not conflict with the Division's standard terms and conditions as set forth in Rule .0314, unless prior written approval is obtained from the Division;
 - (iv) an Agency shall provide to the Division a draft Solicitation Document for review and approval prior to posting on the Electronic Bid System. The Division shall review for compliance in accordance with G.S. 143-50.1 and Section .0300 of these Rules; and
 - (v) an Agency shall solicit Sealed Offers in accordance with this Subsection. After opening and completing the evaluation of Offers received, the Agency shall prepare and submit a written recommendation for award, along with a copy of all Offers received, to the Division for approval or other actions deemed necessary by the SPO to ensure compliance with 01 NCAC 05B. Notice of the Division's decision shall be sent to the Agency.
 - (b) An Agency shall advertise all Solicitations subject to this Subsection through the Electronic Bid System maintained by the Division.
 - (c) Contracts for purchases in excess of a university's Bid Value Benchmark or an Agency's General Delegation shall be awarded by the Purchasing Agency upon approval from the Division in accordance with the process outlined in this paragraph.
 - (d) Purchasing agencies shall encourage and promote the use of historically underutilized businesses as defined in G.S. 143-128.4 in purchasing Goods and Services.
- (4) The Procurement of Goods and Services shall be processed in the same manner.

History Note: Authority G.S. 143-48; 143-49; 143-52; 143-53; 143-53.1; Eff. February 1, 1976; Readopted Eff. February 27, 1979; Amended Eff. February 1, 1996; January 1, 1985; Temporary Amendment Eff. February 15, 1998; Amended Eff. April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. March 1, 2022.

01 NCAC 05B .0314 SOLICITATION DOCUMENTS

- (a) In this Rule, the Division establishes standard Solicitation Documents for use in Contracts with the State. A Purchasing Agency shall use Division Solicitation Documents for purchases over the Small Purchase Benchmark.
- (b) Division Solicitation Documents shall act as templates for the Purchasing Agency, including provisions for:

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| <p>(1) Purchasing Agency contract lead name, contact information, Solicitation identifying information, and commodity codes;</p> <p>(2) Purpose and background information such as:</p> <p style="padding-left: 20px;">(A) a description of the requested Goods or Services;</p> <p style="padding-left: 20px;">(B) a description of the Purchasing Agency's needs; and</p> <p style="padding-left: 20px;">(C) the intent of the solicitation;</p> <p>(3) Contract Term information, including any Renewal period;</p> <p>(4) General information regarding the Solicitation and bid process including:</p> <p style="padding-left: 20px;">(A) date and time when the bids will be opened;</p> <p style="padding-left: 20px;">(B) instruction as to how and when the Vendor is to respond to the Solicitation;</p> <p style="padding-left: 20px;">(C) the intended schedule of events and responsibilities of the Solicitation;</p> <p style="padding-left: 20px;">(D) instructions for submitting written questions to the Purchasing Agency;</p> <p style="padding-left: 20px;">(E) a list of content that should be included in the Vendor's response; and</p> <p style="padding-left: 20px;">(F) instructions on how to submit an alternate bid, if permitted;</p> <p>(5) The method of award and bid evaluation process including:</p> <p style="padding-left: 20px;">(A) the number, type, and structure of the intended award;</p> <p style="padding-left: 20px;">(B) description of the evaluation criteria; and</p> <p style="padding-left: 20px;">(C) notice of the State's option to negotiate in accordance with 01 NCAC 05B .0503;</p> <p>(6) The terms of the Vendor's performance, including:</p> <p style="padding-left: 20px;">(A) the terms of pricing, invoicing, and methods of delivery of the requested Goods or Services;</p> <p style="padding-left: 20px;">(B) the scope of work required by the Solicitation;</p> <p style="padding-left: 20px;">(C) Specifications for the required Good or Service;</p> <p style="padding-left: 20px;">(D) licensing requirements, as applicable;</p> <p style="padding-left: 20px;">(E) statement of warranty or maintenance option; and</p> <p style="padding-left: 20px;">(F) instructions for submitting samples, demonstrations, or descriptive literature;</p> <p>(7) Requirements and instructions for submitting references;</p> <p>(8) Notice of confidentiality and prohibited communications;</p> <p>(9) Contract administration requirements including:</p> <p style="padding-left: 20px;">(A) post award contract management meetings and periodic status reports schedule;</p> | <p style="padding-left: 40px;">(B) provisions for the review of the Vendor's performance as stated in Subparagraph (6) of this Paragraph; and</p> <p style="padding-left: 20px;">(C) dispute resolution.</p> <p>(10) Terms and conditions approved by the Division pursuant to 01 NCAC 05B .0318.</p> <p>(c) The Purchasing Agency may add or remove provisions as required for certain Solicitations, such as those with unique, complex, or highly technical Specifications.</p> <p><i>History Note: Authority G.S. 143-49; 143-52(a); 143-53; Eff. February 1, 1996; Amended Eff. April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. March 1, 2022.</i></p> <p>01 NCAC 05B .0318 TERMS AND CONDITIONS</p> <p>(a) In this Rule, the Division establishes standard terms and conditions for use in Contracts with the State.</p> <p>(b) In addition to any contract provisions specifically required by an applicable statute or rule, standard terms and conditions should contain provisions relating to:</p> <p style="padding-left: 20px;">(1) The rights and responsibilities of the parties, including performance, payment terms, services terms, and condition and packaging of Goods;</p> <p style="padding-left: 20px;">(2) Contract terms, including:</p> <p style="padding-left: 40px;">(A) default;</p> <p style="padding-left: 40px;">(B) termination;</p> <p style="padding-left: 40px;">(C) remedies;</p> <p style="padding-left: 40px;">(D) governing law;</p> <p style="padding-left: 40px;">(E) insurance coverage requirements;</p> <p style="padding-left: 40px;">(F) assignment and delegation;</p> <p style="padding-left: 40px;">(G) confidentiality;</p> <p style="padding-left: 40px;">(H) indemnification;</p> <p style="padding-left: 40px;">(I) conflict of terms;</p> <p style="padding-left: 40px;">(J) order of precedence;</p> <p style="padding-left: 40px;">(K) warranties;</p> <p style="padding-left: 40px;">(L) integration;</p> <p style="padding-left: 40px;">(M) amendments;</p> <p style="padding-left: 40px;">(N) no waiver;</p> <p style="padding-left: 40px;">(O) licensing provisions; and</p> <p style="padding-left: 40px;">(P) force majeure;</p> <p style="padding-left: 20px;">(3) Contract terms required in Contracts with the State such as protections for State data and property, availability of State funds, vendor advertising, access by the State Auditor to persons and records, electronic procurement and related fees, electronic records, applicability of taxes, sovereign immunity, compliance with non-discrimination statutes, and provisions relating to the utilization of federal funds; and</p> <p style="padding-left: 20px;">(4) Other provisions to protect the State from legal and other risks, as necessitated by current legal, market, and business conditions.</p> |
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(c) The Purchasing Agency may add or remove specific terms and conditions for certain Contracts, such as those with unique, complex or highly technical Procurements.

History Note: Authority G.S. 143-49; 143-50.1; 143-52; 143-53; 143-135.9;
Eff. March 1, 2022.

01 NCAC 05B .0319 CONTRACT TERM

- (a) Except as allowed in G.S. 143-53(d), the Agency's executive officer, or his or her designee, shall develop procedures consistent with this Chapter for approving Contract terms up to three years.
- (b) Except as otherwise provided by statute, a Contract with a term that exceeds three years, including the Initial Contract Term and any Renewal and Extension, requires approval of the SPO prior to posting the Solicitation. Requests for approval may be made through the Electronic Bid System.
- (c) No Contract may contain a provision that provides for more than two one-year Renewals without prior approval of the SPO.
- (d) SPO approval may be granted after consideration of the factors in Rule .0321 of this Section or when the SPO determines it is most advantageous to the State in accordance with G.S. 143-52(a).

History Note: Authority G.S. 143-49; 143-52; 143-53; 143-135.9;
Eff. March 1, 2022.

01 NCAC 05B .0320 CONTRACT EXTENSIONS

- (a) Except as allowed in G.S. 143-53(d), any Extension beyond the term originally provided in the Contract that would result in a total Contract term that exceeds three years shall be by approval of the SPO prior to the expiration of the initial Contract or Renewal as provided in Rule .0319 of this Section, after consideration of the factors set forth in Rule .0321.
- (b) When an Agency determines, through consideration of the factors listed in Rule .0321 of this Section, that a Contract Extension is most advantageous to the State, as defined by G.S. 143-52, the Agency shall publicly post a notification of the Extension on the Electronic Bid System. The notification shall state for any Contract Extension:
 - (1) the original bid number;
 - (2) the awarded Vendor;
 - (3) the Contract start and end dates;
 - (4) the original Contract amount;
 - (5) the revised end date;
 - (6) an explanation of any pricing modification to be included; and
 - (7) Agency and Contract Manager contact information.
- (c) When an Agency determines it is most advantageous to the State, as defined by G.S. 143-52, the Agency may request the Vendor to extend the scheduled termination dates of Contracts. Extensions shall not result in a change in the prices stated in the original Contract unless agreed to by the Purchasing Agency in writing. Extensions that result in a total contract value that exceeds a Purchasing Agency's General Delegation or Bid Value Benchmark shall be submitted to the Division for approval.

History Note: Authority G.S. 143-49; 143-52; 143-53; 143-135.9;
Eff. March 1, 2022.

01 NCAC 05B .0321 FACTORS FOR CONTRACT EXTENSION OR RENEWAL

- (a) Before exercising a Renewal or seeking an Extension of a Contract as provided in this Section, the Agency shall consider and document in the official file, in accordance with 01 NCAC 05B .1903, the following factors:
 - (1) market research that reveals any changes in the industry subject to the Contract;
 - (2) the Vendor's past performance under the Contract;
 - (3) existence of new risk factors not present at award that increase the risk of unsuccessful contract performance;
 - (4) the presence and effectiveness of any performance-based contract provisions and metrics;
 - (5) the impact of transitioning to a new Vendor on the Agency's ability to meet the requirements of its programs; and
 - (6) any other requirements of State or federal statutes or rules.
 - (b) Subject to the limitations in Rule .0319 of this Section, an Agency's decision to renew or extend a Contract Term shall be approved by the Agency's head of Procurement.
 - (c) Contracts shall only be extended or renewed prior to the expiration of the last active Contract Term.
 - (d) An Agency shall obtain SPO approval before exercising a Renewal or seeking an Extension of a Contract when:
 - (1) the factors in Paragraph (a) of this Rule do not support a Renewal or Extension; or
 - (2) a Renewal or Extension would result in a total contract value that exceeds the Agency's General Delegation or Bid Value Benchmark.
- History Note:* Authority G.S. 143-49; 143-52; 143-53; 143-135.9;
Eff. March 1, 2022.

01 NCAC 05B .1604 GENERAL DELEGATIONS

History Note: Authority G.S. 143-53;
Temporary Adoption Eff. February 15, 1998;
Eff. April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;
Repealed Eff. March 1, 2022.

TITLE 02 - DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

02 NCAC 59A .0101 OBJECTIVES

History Note: Authority G.S. 106-840;
Eff. February 1, 1976;

*Amended Eff. August 1, 1982;
Transferred from 15A NCAC 06A .0101 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. September 19, 2015;
Repealed Eff. March 1, 2022.*

02 NCAC 59A .0102 ADDRESS

The Division of Soil and Water Conservation, Department of Agriculture & Consumer Services is located at 216 West Jones Street, Raleigh, North Carolina 27603. The mailing address is 1614 Mail Service Center, Raleigh, North Carolina 27699-1614.

*History Note: Authority G.S. 139-4; 106-840; 106-841;
Eff. February 1, 1976;
Amended Eff. June 1, 1990; September 1, 1982; December 5, 1980; November 1, 1978;
Transferred from 15A NCAC 06A .0107 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. September 19, 2015;
Amended Eff. March 1, 2022.*

02 NCAC 59A .0103 DEFINITIONS

As used in this Chapter:

- (1) "Association" means the North Carolina Association of Soil and Water Conservation Districts;
- (2) "Commission" means the Soil and Water Conservation Commission created by G.S. 106-840;
- (3) "Department" means the Department of Agriculture & Consumer Services;
- (4) "District" or "soil and water conservation district" means as defined in G.S. 139-3(5);
- (5) "Division" means the Division of Soil and Water Conservation;
- (6) "Public Law 83-566" means the Watershed Protection and Flood Prevention Act of 1954, P.L. 83-566, 68 Stat. 666 [codified at 16 U.S.C. 1001-07 (1976)];
- (7) "Supervisor" means one of the members of the governing body of a district.

*History Note: Authority G.S. 139-4; 106-840;
Eff. September 1, 1982;
Amended Eff. June 1, 1990;
Transferred from 15A NCAC 06A .0108 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. September 19, 2015;
Amended Eff. March 1, 2022.*

02 NCAC 59A .0104 SUPERVISOR VACANCIES

*History Note: Authority, G.S. 106-840;
Eff. September 1, 1986;
Amended Eff. July 1, 1988;
Transferred from 15A NCAC 06A .0109 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. September 19, 2015;
Repealed Eff. March 1, 2022.*

02 NCAC 59A .0201 GENERAL

- (a) Supervisors shall receive training as set forth in this Section regarding soil, water, natural resources conservation, and the duties and responsibilities of Supervisors as set forth in Chapter 139, Article I, of the North Carolina General Statute.
- (b) The Commission shall provide oversight for the Supervisor Training Program, including both required and continuing training requirements. The Division shall approve specific training courses and related credits as outlined in the rules of this Section. The Commission shall retain authority to consider appeals of decisions to deny or limit credit for courses or events.

*History Note: Authority G.S. 106-840(a)(2); 106-841(g); 139-4(d)(13); 139-7.2;
Eff. March 1, 2022.*

02 NCAC 59A .0202 REQUIRED BASIC TRAINING

- (a) All Supervisors shall complete Basic Training for Soil and Water Conservation District Supervisors.
- (b) Participation in this required basic training course shall be completed within the first year of service as an elected or appointed Supervisor.
- (c) For Supervisors serving prior to December 2022, documentation of previous participation in this required basic training course shall meet the requirement as set forth in this Rule.
- (d) For Supervisors that are re-elected in December 2022 that have not previously participated in this required basic training course, participation shall be required in 2023 or at the next available offering.
- (e) The Commission shall review and approve the Basic Training curriculum annually and publish the approved curriculum on its website. The training shall include those topics set forth in G.S. 139-7.2.
- (f) Basic Training curriculum shall include the duties and responsibilities of district Supervisors.
- (g) Basic Training may be provided by the School of Government at the University of North Carolina at Chapel Hill or other qualified sources as outlined in Rule .0204(c)(3) of this Section.

*History Note: Authority G.S. 139-4(d)(13); 139-7.2;
Eff. March 1, 2022.*

02 NCAC 59A .0203 CONTINUING TRAINING REQUIREMENTS

- (a) All Supervisors shall obtain six Supervisor Training Credits per term of service as set forth in Rule .0204 of this Section.
- (b) Supervisor Training Credits earned for required training in Rule .0202 of this Subchapter shall be credited toward the requirements of this Rule.

*History Note: Authority G.S. 139-4(d)(13); 139-7.2;
Eff. March 1, 2022.*

02 NCAC 59A .0204 SUPERVISOR TRAINING CREDITS

- (a) Supervisor Training Credits shall be assigned as one credit being equal to one hour of instruction that deals with content

relevant to the topics included in Paragraph (b) of this Rule. Credits are approved in 15-minute increments.

(b) Credits shall be awarded for training that covers topics as outlined in G.S. 139-7.2(b).

(c) Credits may be attained:

- (1) At local board meetings when a presentation that meets the requirements set forth in Paragraph (b) of this Rule is delivered;
- (2) At local board meetings using resource material that meets the requirements set forth in Paragraph (b) of this Rule;
- (3) Through classroom training, field days, or events sponsored by the District, the Association, the Commission, the Division, the Natural Resources Conservation Service, or the School of Government at the University of North Carolina at Chapel Hill.

(d) Other events or activities may be individually approved by the Commission when they meet the requirements of this Rule. Requests shall be submitted in writing to the Commission through the Division at the address provided in Rule .0102 of this Section. Supervisors may submit a request for Supervisor Training Credit hours for training achieved beyond Subparagraphs (c)(1) – (3) of this Rule. Supervisor requests shall provide documentation for how the other events or activities meet requirements outlined in Paragraph (b) of this Rule.

(e) Credit shall not be given for the same course or resource materials more than two times in a given term.

(f) The record of credits earned shall be maintained by the Division. Awarded credits shall be posted on the Division website. Supervisors shall be responsible for verifying recorded credits for accuracy.

History Note: Authority G.S. 139-4(d)(13); 139-7.2; Eff. March 1, 2022.

02 NCAC 59A .0301 SUPERVISOR REMOVAL PROCEDURES AND REPORTING

(a) District Supervisors may be removed by the Commission for neglect of duty, incompetence, or malfeasance pursuant to G.S. 139-7. Evidence of neglect of duty shall include the failure to attend three consecutive regularly scheduled district meetings, except when prevented by illness. Evidence of neglect of duty shall also include the failure of sitting Supervisors to meet training requirements set forth in Section .0200 of this Subchapter.

(b) District boards shall submit a Supervisor attendance report, annually, for all members. This report shall be delivered by January 31 of each year. Reports shall cover the time period beginning December 1 and ending November 30 of the previous year.

(c) Each District board shall notify the Commission in writing of any member that has failed to attend three consecutive regularly scheduled meetings, except when prevented by illness of the Supervisor. Notification from the District shall include explanation for non-attendance and the actions that the District board has taken to address the Supervisor's attendance.

(d) The Division shall provide to the Commission the following information:

- (1) training documentation of participants in Basic Training for Soil and Water Conservation District Supervisors by April 1 of each year; and
- (2) a summary of Supervisor Training Credits outlined in Rule .0204 of this Subchapter by February 1 of odd years.

(e) The Inquiry Committee outlined in Rule .0302 of this Section shall review documentation submitted to the Commission by the Districts and the Division, and shall take action as outlined in Rule .0302 of this Section.

(f) When the Inquiry Committee determines that neglect of duty, incompetence, or malfeasance has occurred in accordance with G.S. 139-7 and Rule .0302 of this Section, and refers the Supervisor to the Commission for a hearing, the Commission shall take hardship; including illness, financial and familial obligations, and circumstances beyond the control of the Supervisor, into consideration prior to removal from office for neglect of duty.

(g) At least 30 days prior to the consideration of removing a Supervisor from office, the Commission, through the Division, shall provide the Supervisor notice of the grounds for which removal is being considered. The Supervisor may provide a written response to the Commission within 15 days of receipt of the notice. Notice shall be provided as follows:

- (1) The copy of the notice shall be transmitted to the Supervisor by certified United States Mail, return receipt requested, or by any other means by which a delivery receipt can be provided. If the notice is returned undeliverable the Commission, through the Division, shall send notice to the Supervisor's last known address via United States Postal Service, First Class Mail.
- (2) The notice shall include the date, time, and location of the meeting at which removal will be considered, and inform the Supervisor of the opportunity to address the Commission.
- (3) The notice shall notify the Supervisor that the failure to submit a written response and failure to appear before the Commission may be considered evidence that the Supervisor does not object to being removed.
- (4) A copy of the notice shall be forwarded to the District board of which the Supervisor is a member. The copy of the notice may be transmitted to the District board electronically or by United States Postal Service, First Class Mail. The District board may submit information in support of, or opposition to, the Supervisor's removal.

(h) When the matter comes before the Commission, the Supervisor shall be allowed an opportunity to address the Commission and provide information regarding the matter. The time period for addressing the Commission shall be limited to 15 minutes.

(i) If the matter comes before the Commission at the request of a District board, then a member of the District board shall present the request to the Commission and shall provide the Commission

with information in support of the request. Any information provided to the Commission to support a District board's request shall also be provided to the Supervisor.

(j) The Commission may hear information from Division staff and from the District board, including the District board's staff. As part of the hearing the Chair may allow other individuals to be heard regarding the matter before the Commission.

(k) If after considering the material before it the Commission acts to remove the Supervisor, the Commission shall notify the Supervisor in writing.

(l) In making its determination whether neglect of duty, incompetence, or malfeasance in accordance with G.S. 139-7 has occurred, the Commission shall consider the information in the record before it, including the information received during the hearing.

*History Note: G.S. 106-840; 139-7;
Eff. March 1, 2022.*

02 NCAC 59A .0302 INQUIRY COMMITTEE

(a) When a Supervisor is considered for removal for neglect of duty, incompetence, or malfeasance as set forth in G.S. 139-7, an Inquiry Committee shall take preliminary actions. Preliminary actions shall include the review of information submitted by the requesting District and the Supervisor whose removal is requested, or review of training documentation submitted by the Division.

(b) The Inquiry Committee shall be appointed by the Commission Chair when a Supervisor is considered for removal. The Inquiry Committee shall include three members. When making appointments to the Inquiry Committee the Commission Chair shall consider whether each member has a conflict of interest or whether other appropriate grounds exist that would prevent the member from serving on the Committee. In the event a member of the Inquiry Committee is unable to serve, the Commission Chair shall replace the member with another member of the Commission.

(c) Upon receipt of written notice from a District requesting removal of a supervisor or supervisor training documentation provided by the Division, the Inquiry Committee shall request a written explanation from the Supervisor. The Inquiry Committee, through the Division, shall request any supplemental information to be provided by the Supervisor in writing within 30 days. The request shall be transmitted to the Supervisor by certified United States Mail, return receipt requested, or by any other means by which a delivery receipt can be provided.

(d) After reviewing written documentation from the District and any written information provided by the Supervisor or training documentation submitted by the Division, the Inquiry Committee may:

- (1) Determine that neglect of duty, incompetence, or malfeasance has occurred, as determined on a case-by-case basis, and refer the Supervisor to a hearing by the Commission as set forth in Rule .0301 of this Section;
- (2) Determine that basic or continuing training requirements be extended by one year; or
- (3) Determine that a hearing is unnecessary and the matter will be closed without further action.

(e) In making the determination outlined in Paragraph (d) of this Rule, the Inquiry Committee shall take hardship, including illness, financial and the familial obligations, and circumstances beyond the control of the Supervisor, into consideration.

*History Note: Authority G.S. 106-840; 139-7.2;
Eff. March 1, 2022.*

TITLE 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

07 NCAC 13B .0101 DEFINITIONS OF TERMS

As used in this Subchapter, the following terms shall mean:

- (1) "Bridle Trail" means any trail maintained by the Division on Division Property for persons riding on horseback;
- (2) "Division Property" or "State Parks" means any state park, recreation areas, natural areas, state lakes, or other property leased or managed by the Division;
- (3) "E-bike" means a two- or three-wheeled cycle with operable pedals and an electric motor of less than 750 watts (1 h.p.). Devices with electric motors of 750 watts (1 h.p.) or more of power and not included in the Definition set forth in this Item shall be managed as motor vehicles under Chapter 20 of the North Carolina General Statutes. E-bike shall be further classified pursuant to the following definitions:
 - (a) "Class 1 e-bike" shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;
 - (b) "Class 2 e-bike" shall mean an electric bicycle equipped with a motor that may be used to propel the bicycle, even when the rider is not pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour; and
 - (c) "Class 3 e-bike" shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.
- (4) "Hiking Trail" means any trail maintained for pedestrians by the Division on Division Property;
- (5) "Mountain Bike Trail" or "Single-Track Trail" means any trail maintained for mountain biking by the Division on Division Property;
- (6) "Multi-Use Trail" means any trail that is designated for more than one type of use;
- (7) "Public nudity" means a person's intentional failure to cover with an opaque covering the

- person's genitals, pubic area, anal area, or female breasts below a point from the top of the areola while in a public place;
- (8) "Swimming Area" means any beach or water area designated by the Division through posted signage as a swimming and bathing area;
- (9) "Unnecessary Stopping" means a vehicle coming to a stop at a point other than any of the following:
- (a) in a parking place;
 - (b) in conformity with traffic regulations; or
 - (c) because of a defect in the vehicle.

History Note: Authority G.S. 143B-135.16;

Eff. February 1, 1976;

Amended Eff. September 1, 1988; January 1, 1983; April 4, 1979;

Transferred from 15A NCAC 12B .0101 Eff. April 1, 2017;

Readopted Eff. March 1, 2022.

07 NCAC 13B .0104 PERMITS

(a) Applications for permits may be made by contacting individual Park and Recreation Area offices or Deputy Director of Operations, North Carolina Division of Parks and Recreation, 1615 Mail Service Center, Raleigh NC 27699-1615.

(b) The following uses of Division property shall require a Special Use Permit authorized by the Division:

- (1) metal detector use;
- (2) rock climbing, rappelling and bouldering for individual climbers. A Group Climbing Permit, as outlined in Paragraph (f) of this Rule, shall be required for all organized group rock climbing, rappelling, and bouldering;
- (3) licensed vehicle operations on the unpaved areas of Fort Fisher State Recreation Area;
- (4) overnight parking;
- (5) aviation activities using unmanned aerial vehicles (UAV) or drones;
- (6) pyrotechnics; and
- (7) other activities or uses not otherwise expressly allowed by these Rules.

(c) Special Use Permits may be obtained at the park level from the Park Superintendent or designee on the day of the activity. An application for a Special Use Permit shall include the following information:

- (1) the name, address, and phone number of the applicant;
- (2) the name of the organization (if any);
- (3) the name, address, and phone number of a contact person;
- (4) the date, time, duration, nature, and location of the proposed activity or use;
- (5) the estimated number of persons expected to participate; and
- (6) the equipment and facilities to be used.

(d) The following activities occurring on Division property shall require a Special Activity Permit authorized by the Division:

- (1) athletic contests;
- (2) events;

- (3) aviation activities using any aviation apparatus other than unmanned aerial vehicles (UAV) or drones;
- (4) pack animals and goats;
- (5) commercial enterprises;
- (6) commercial photography;
- (7) advertising;
- (8) public assemblies and demonstrations;
- (9) entry to restricted areas; and
- (10) other activities or uses not otherwise expressly allowed by these Rules.

Notwithstanding the requirements of this Rule, uses of intoxicating liquors and controlled substances or beverages are governed by 07 NCAC 13B .1003.

(e) An application for a Special Activity Permit shall be made at least 14 days in advance of the activity or use and shall include the following information:

- (1) the name, address, and phone number of the applicant;
- (2) the name of the organization (if any);
- (3) the name, address, and phone number of a contact person;
- (4) the date, time, duration, nature, and location of the proposed activity or use;
- (5) the estimated number of persons expected to participate; and
- (6) the equipment and facilities to be used.

(f) A Research Activity Permit authorized by the Division shall be required for any academic, historic, scientific, or other research, study, or project occurring on Division Property. This shall include studies which involve the collection, removal, or disturbance of any natural or cultural resource of any state park unit and projects that require placing monitoring equipment on any Division property. An application for a Research Activity Permit shall include the following information:

- (1) the name, address, e-mail address, phone number, and resume or curriculum vitae of the principal investigator and project director;
- (2) the name of the organization (if any);
- (3) the name, address, and phone number of a contact person;
- (4) the date, time, duration, nature, and location(s) of the proposed activity or use;
- (5) the title and description of the proposed activities to be performed;
- (6) the estimated number of persons expected to participate;
- (7) the equipment and facilities requested to be used; and
- (8) copies of any permits or licenses required by federal or state law.

(g) A Group Climbing Permit authorized by the Division shall be required for all rock climbing, rappelling, or bouldering by organized private, commercial, governmental, or non-profit groups occurring on Division property. An application for a Group Climbing Permit shall include the following information:

- (1) the name, address, e-mail address, and phone number of the organizer;
- (2) the name of the organization (if any);

- (3) the date, time, duration, nature, and location(s) of the proposed activity;
- (4) the estimated number of persons expected to participate;
- (5) proof of general liability insurance; and
- (6) the equipment and facilities requested to be used.

(h) The Park Superintendent or their designee shall issue a Special Use Permit, Special Activity Permit, or Group Climbing Permit; and the Division's Director or designee shall issue a Research Activity Permit, on receipt of a completed application unless:

- (1) A prior application for a permit for the same activity or use has been made and had been or will be granted; and the activities or uses authorized by that permit do not allow multiple occupancy of that particular location;
- (2) The activity or use will threaten the health, safety, and welfare of persons using the Park;
- (3) The activity or use is of such a nature or duration that it cannot be conducted or performed in the particular location applied for, considering such things as safety of the applicant or other Park visitors; damage to Park resources or facilities; impairment of the atmosphere of peace and tranquility in specially protected natural or historic areas; interference with interpretative programs, visitor services or other program activities, or the administrative activities of the Park; or impairment of public use facilities or services of Park concessionaires or contractors;
- (4) The activity or use would constitute a violation of applicable law or regulation; or
- (5) The activity would create conditions that are not consistent with or are detrimental to the protection and use of the Park for the purposes for which it is operated.

(i) The permit may contain such additional conditions or restrictions as are consistent with protection and use of the Park for the purposes for which it is operated, including limitations on the time, location, number of participants, use and facilities, and number and types of equipment used. Locations requested for permitted activities which may not be appropriate include:

- (1) archaeological and interpretive program areas;
- (2) historic structures;
- (3) boat ramps;
- (4) trails;
- (5) sensitive or fragile natural areas;
- (6) campgrounds;
- (7) designated swimming beaches;
- (8) scenic overlooks; and
- (9) the habitats of threatened or endangered species.

(j) If a permit is denied, the applicant shall be so informed with the reason(s) for the denial set forth.

(k) Participants in activities or uses covered under this Rule shall:

- (1) be subject to the rules of this Subchapter and the terms of any applicable permits issued pursuant

to this Rule, including adherence to locations specified for their activity or use while partaking in such event or activity;

- (2) be subject to fees for parking, admission, or use;
- (3) not place printed material on Park signs, infrastructure, natural resources, or vehicles;
- (5) not obstruct or impede pedestrians or vehicles;
- (6) not harass Park visitors with physical contact or persistent demands; and
- (7) not threaten the health, safety, and welfare of persons using the Park.

(l) Violation of the terms and conditions of a permit issued in accordance with this Rule is prohibited and shall result in revocation of the permit by the Park Superintendent or designee.

History Note: Authority G.S. 143B-135.16; Eff. February 1, 1976; Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983; Transferred from 15A NCAC 12B .0104 Eff. April 1, 2017; Readopted Eff. March 1, 2022.

07 NCAC 13B .0204 ROCK CLIMBING

(a) Rock climbing, bouldering, or rappelling is prohibited except in in areas designated by the Park Superintendent, in accordance with Rule .0104 of this Subchapter. A Special Use Permit, as provided by Rule .0104 of this Subchapter, is required for all climbing, rappelling, and bouldering that is not part of an organized group as described in Paragraph (d) of this Rule.

(b) The installation of permanent or fixed rock climbing anchors, such as pitons and expansion bolts, is prohibited in any climbing area unless the Park Superintendent has determined the installation may be made safely and without affecting park resources or facilities.

(c) The superintendent may designate a daily capacity limit for specific climbing routes and areas based on natural resource protection and public safety.

(d) Organized private, commercial, governmental, or non-profit groups shall obtain a Group Climbing Permit prior to the activity. Application for a Group Climbing Permit shall be made as provided by Rule .0104 of this Subchapter.

(e) Violation of the terms and conditions of a permit issued in accordance with this Section is prohibited and shall result in the revocation of the permit.

History Note: Authority G.S. 143B-135.16; Eff. January 1, 1983; Amended Eff. May 1, 2010; October 1, 1984; Transferred from 15A NCAC 12B .0204 Eff. April 1, 2017; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. March 1, 2022.

07 NCAC 13B .0507 BICYCLES

(a) Bicycles, including Class 1 and 2 e-bikes as defined in Rule .0101 of this Subchapter, may be used on park roads, paved or hardened trails, Multi-Use Trails, and Mountain Bike Trail or Single-Track Trails, if designated through posted signage for bicycle use. Class 3 e-bikes shall not be considered bicycles and shall be governed by Rule .0501 of this Subchapter.

(b) Park Superintendents or their designees may limit, restrict, or impose conditions on bicycle use or close any park road, trail, or portion thereof to bicycle use based on considerations for public health and safety, natural and cultural resource protection, and event and program management.

(c) E-bike motorized pedal assistance must be accompanied by manual pedaling from the operator when using any trails designated for bicycle use. Complete motorized propulsion of the E-bike without manual pedaling may only be used on park roads and other locations where use of motor vehicles by the public is allowed.

*History Note: Authority G.S. 143B-135.16;
Eff. March 1, 2022.*

07 NCAC 13B .0602 CAMPING

(a) A person shall not camp on Division property except:

- (1) in a designated camping area identified by posted signage; and
- (2) with a valid camping reservation.

(b) Reservations for camping shall only be accepted in accordance with the provisions of 07 NCAC 13B .1205, Reservations.

(c) Payment of the camping fee, in full, is required when the reservation is made.

(d) The maximum period of overnight camping on any Division property is 14 days within any 30 day period beginning with the first night of stay. Multiple camping areas on an individual Division property are considered as a single camping facility for determining the maximum period of overnight camping within any 30 day period. The maximum nights shall be extended by the Park Superintendent, upon written request with reasons supporting the extension, if the Park Superintendent determines equitable public access, visitor services, and staffing levels will not be affected.

(e) Any set up camp left unattended for more than 12 hours may result in the revocation of the camping reservation and all campers residing thereon being evicted from the campsite, based on considerations for public health and safety, natural and cultural resource protection, and campsite management. Camping equipment, tents, trailers, recreation vehicles and articles on a campsite left unattended for more than 12 hours are subject to removal at the owner's expense.

(f) At least one adult, 18 or older, shall accompany each camper group.

(g) No campfires shall be left unattended.

(h) Tents shall only be used on a tent pad or platform, in areas permitted under a Special Activity Permit pursuant to Rule .0104 of this Subchapter, or in areas otherwise identified by posted signage.

(i) Connecting to a utility system without payment of required fees is prohibited.

(j) A Division representative may designate portions of a Division property where food products, garbage, cosmetics, cleaning supplies, and equipment used to cook or store food products are required to be kept in a Division supplied food locker, a vehicle, recreational vehicle, or suspended at least 10 feet above the ground and four feet horizontally from a post, tree trunk, or other object. Food, garbage, and cooking equipment shall not be stored

except as specified in these designated areas. This Paragraph does not apply to food products, garbage, and cooking equipment being transported, consumed, or being prepared for consumption.

(k) Designated camping areas shall be for use by registered campers with a camping reservation for that site and their guests only.

(l) Violation of the terms and conditions of a camping reservation issued in accordance with this Section is prohibited and shall result in the suspension or revocation of the reservation.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; February 15, 1981;
Transferred from 15A NCAC 12B .0602 Eff. April 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. March 1, 2022.*

07 NCAC 13B .0701 SPORTS AND GAMES: WHEN PERMITTED

(a) Organized athletic contests, sports, and games are allowed by special activity permit, as provided by Rule .0104 of this Subchapter.

(b) The use of skate boards, roller blades, roller skates, scooters, other electronically powered devices, and similar transportation methods are prohibited where such use would create a safety hazard or cause damage to Division Property or natural or cultural resources.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; February 1, 1983;
Transferred from 15A NCAC 12B .0701 Eff. April 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. March 1, 2022.*

07 NCAC 13B .0702 HORSES

(a) A person shall not use, ride, or drive a horse except along a bridle trail or within an equestrian facility. Horses shall be prohibited from swimming areas, cabin areas, picnic areas, and other day-use areas.

(b) A person shall not load or unload a horse on Division property except in posted bridle parking areas.

(c) Horses shall not be unattended at any time on any Division property unless the horse is secured in a horse trailer, in a stall, or otherwise securely hitched so as to prevent the animal to wander.

(d) Any horse causing a nuisance on any Division property shall be removed by the owner from the property upon the request by a Division official.

(e) Between the hours of 9 p.m. and 7 a.m., all horses must be secured in a horse trailer, in a stall, or otherwise securely hitched so as to prevent the animal to wander.

(f) Paragraphs (a), (b), (c) and (f) of this Rule shall not apply to service animals that meet the criteria specified in the Americans with Disabilities Act (42 U.S.C. 12101 et seq) or G.S. 168-4.2. This Rule shall not apply to animals used by the Division, its agents, or contractors for operations or educational programming.

History Note: Authority G.S. 143B-135-16;
Eff. February 1, 1976;
Amended Eff. January 1, 1983;
Transferred from 15A NCAC 12B .0702 Eff. April 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. May 1, 2018;
Amended Eff. March 1, 2022.

**07 NCAC 13B .0901 FIREARMS: WEAPONS:
EXPLOSIVES**

(a) No person except the following shall carry or possess firearms, air guns, air soft guns, paint ball guns, archery equipment, sling shots, or other apparatus capable of firing a lethal projectile of any kind on any Division property:

- (1) Authorized park employees, their agents, or contractors;
- (2) Law enforcement officials with jurisdictional authority, including park rangers;
- (3) Family members residing with Division employees in a residence within a park;
- (4) Individuals participating in Division-led archery programming, only in respect to the archery equipment used as part of the program;
- (5) Individuals with a valid concealed handgun permit issued by one of the United States that adheres to the requirements of G.S. 14-415.11; and
- (6) Other persons as defined in G.S. 14-269(b) and G.S. 14-415.27.

Subparagraph (a)(1), (3), and (5) of this Rule shall not apply on property owned by the U.S. Army Corps of Engineers and leased by the Division including Falls Lake State Recreation Area, Jordan Lake State Recreation Area, and Kerr Lake State Recreation Area.

(b) The possession or use of cap pistols is prohibited. The possession or use of dynamite or other powerful explosives as defined in G.S. 14-284.1 is prohibited.

(c) The possession or use of pyrotechnics is prohibited except for pyrotechnics exhibited, used, or discharged in connection with a public exhibition; authorized in writing by the board of commissioners of the county in which the pyrotechnics are to be exhibited, used or discharged; supervised by experts in the field of pyrotechnics; and approved by the Director of the Division of Parks and Recreation, or as part of a special use permit in accordance with Rule .0104 of this Subchapter. Persons wishing to possess or use pyrotechnics in connection with a public exhibition, such as a public celebration, shall file an application for a special use permit with the park superintendent. All applicants shall enter an indemnification agreement with the Department and obtain general liability and property damage insurance, with limits as determined by the Secretary or designee, which are necessary to cover possible liability for damage to property and bodily injury or damage to persons which may result from, or be caused by, the public exhibition of pyrotechnics or any act(s) or omission(s) on the part of the applicant(s) or the applicant's agents, servants, employees, or subcontractors presenting the public exhibition.

History Note: Authority G.S. 14-269; 14-410; 14-415; 14-415.11; 14-415.24; 14-415.27; 143B-135.16; 143B-135.43;
Eff. February 1, 1976;
Amended Eff. October 1, 1984; January 1, 1983;
Temporary Amendment Eff. July 2, 1997;
Temporary Amendment Expired September 29, 1998;
Amended Eff. January 1, 2014; April 1, 1999;
Transferred from 15A NCAC 12B .0901 Eff. April 1, 2017;
Readopted Eff. March 1, 2022.

07 NCAC 13B .0905 SMOKING

Smoking is prohibited in all buildings on Division property. Smoking is prohibited in outdoor areas of Division property except in parking lots, reserved campsites, and where smoking is designated through posted signage. The Division may forbid smoking in any part of any Division property when there is a risk of fire hazard.

History Note: Authority G.S. 143B-135.16;
Eff. March 1, 2022.

07 NCAC 13B .1004 ANIMALS AT LARGE

(a) A person shall not cause or permit any animal owned by him or her, in his or her custody, or under his or her control, except an animal restrained by a leash or other restraint not exceeding six feet in length, to enter any park area. Use of an electronic leash or collar is not permitted in lieu of a physical leash or restraint. Each animal found at large may be seized and disposed of as provided by law covering disposal of stray animals on public property.

(b) Animals shall not be allowed in swimming areas, bathhouses, restaurants, visitor centers, park offices, community buildings, or cabin areas unless an area or facility is designated as pet friendly through posted signage.

(c) Animals shall not be unattended at any time within any park area.

(d) Between 9:00 p.m. and 7:00 a.m., animals shall be confined to owner's enclosed vehicle or tent, except horses, as set forth in Rule .0702 of this Subchapter.

(e) Any animal causing a nuisance within a park area shall be removed by the owner from the park area upon the request by a Division official.

(f) Pack animals and goats are not allowed in any park except by Special Activity Permit, as provided by Rule .0104 of this Subchapter.

(g) Paragraphs (a), (b), and (d) of this Rule shall not apply to service animals that meet the criteria specified in the Americans with Disabilities Act (42 U.S.C. 12101 et seq) or G.S. 168-4.2. This Rule shall not apply to animals owned by Division staff who reside on Division property or to animals used by the Division for educational programming. Horses on Division property shall be governed by Rule .0702 of this Subchapter.

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; January 1, 1983;
Transferred from 15A NCAC 12B .1004 Eff. April 1, 2017;
Readopted Eff. March 1, 2022.

07 NCAC 13B .1101 COMMERCIAL ENTERPRISES

Only park employees, contractors, or their agents may engage in business or conduct commercial activity in a park, unless authorized by a permit as provided by Rule .0104 of this Subchapter.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983;
Transferred from 15A NCAC 12B .1101 Eff. April 1, 2017;
Readopted Eff. March 1, 2022.*

07 NCAC 13B .1102 COMMERCIAL PHOTOGRAPHY, FILMING AND RECORDING

A person shall not photograph, film, or make other recordings within any park for commercial purposes unless the person has a Special Activity Permit. Applications for permits may be made as provided by Rule .0104 of this Subchapter.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. October 1, 1984; January 1, 1983;
Transferred from 15A NCAC 12B .1102 Eff. April 1, 2017;
Readopted Eff. March 1, 2022.*

07 NCAC 13B .1105 PUBLIC ASSEMBLIES AND MEETINGS; SPECIAL ACTIVITY PERMIT

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983;
Transferred from 15A NCAC 12B .1105 Eff. April 1, 2017;
Repealed Eff. March 1, 2022.*

07 NCAC 13B .1201 CLOSING AND OPENING HOURS; RESTRICTED AREAS

- (a) No person is allowed on any Division property between posted closing and opening hours except under a Special Activity Permit or camping reservation, as provided by Rule .0104 and .0602, respectively, of this Subchapter.
- (b) The Division may prohibit or restrict public activity within designated environmentally sensitive areas, areas exceeding capacity levels, construction areas, storm damaged areas, and other similar locations for natural resource protection and public safety.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983;
April 4, 1979;
Transferred from 15A NCAC 12B .1201 Eff. April 1, 2017;
Amended Eff. March 1, 2022.*

07 NCAC 13B .1204 AVIATION

Except under authorization of a Special Activity or Special Use Permit, as outlined in Rule .0104 of this Subchapter, a person shall not voluntarily bring, land, or cause to descend or alight, ascend, or take off within or upon any Division property, any airplane, flying machine, unmanned aerial vehicle (UAV) or drones,

balloon, parachute, glider, hang glider, or other apparatus for aviation. In this Rule, "voluntarily" shall mean anything other than a forced landing.

Requests for permits shall be made in the manner prescribed by Rule .0104 of this Subchapter.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. October 1, 1984; January 1, 1983;
Transferred from 15A NCAC 12B .1204 Eff. April 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. March 1, 2022.*

07 NCAC 13B .1205 RESERVATIONS

- (a) Reservations for camping, cabins, shelters, community buildings, and other reservable facilities shall be made using the Division's central reservation system, pursuant to any contract terms or conditions as set forth in the system at the time of reservation. Reservations are non-transferable and the individual who made the reservation must be present during the reservation period. Reservation confirmation or issued permits must be displayed or produced upon request by Division staff.
- (b) Reservations for park facilities on Division property shall be accepted up to a maximum of 11 months in advance of the requested arrival date.
- (c) Payment for a reservation must be made at the time the reservation is made.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983;
February 15, 1981;
Transferred from 15A NCAC 12B .1205 Eff. April 1, 2017;
Readopted Eff. March 1, 2022.*

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 16 .0103 DEFINITIONS

In addition to the definitions set forth in G.S. 74C, the following definitions shall apply throughout this Subchapter:

- (1) "Agency Head" means the Chairman of the Board.
- (2) "Applicant" means any person, firm, or corporation applying to the Board for a license, trainee permit, registration, or firearms trainer certificate.
- (3) "Armed Private Security Guard" means an individual employed, full time or part time, by a contract security company or a proprietary security organization:
 - (a) who at any time wears, carries, or possesses a firearm in the performance of his or her duties; and
 - (b) whose principal duty is that of:
 - (i) an armed security guard, officer, patrol, or watchman;

- (ii) an armed armored car service guard;
- (iii) a private detective; or
- (iv) an armed courier service guard.
- (4) "Board" means the Private Protective Services Board established by G.S. 74C.
- (5) "Branch Manager or Operator" means the individual endowed with the responsibility and liability for a branch office.
- (6) "Branch Office" means a separate but dependent part of a central organization engaged in the business of providing private protective services established for the purpose of extending the activities of the central organization. The establishment of a telephone number or mailing address in the company name constitutes prima facie evidence of a branch office. If an out-of-state person, firm, association, or corporation opens an office in North Carolina, the North Carolina office shall be deemed the principal place of business and shall have a resident licensed qualifying agent.
- (7) "Chairman" means the Chairman of the Private Protective Services Board.
- (8) "Contract Security Company" means any person, firm, association, or corporation engaging in a private protective services business as defined in G.S. 74C-3 that provides the services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.
- (9) "Direct Supervision" means personal, face-to-face contact and direction of the trainee's activities on a frequent and reasonable basis based upon the trainee's level of experience.
- (10) "Investigative Capacity" means any law enforcement agency position for which the duties include conducting investigations and interviews, completing reports, and testifying in courts, administrative hearings, or military tribunals.
- (11) "Law Enforcement Officer" means a sworn peace officer who has the power of arrest, and who is an employee of the United States, any state, or any political subdivision of a state.
- (12) "Licensee" means any person licensed to perform private protective services in North Carolina in accordance with G.S. 74C.
- (13) "Proprietary Security Organization" means any person, firm, association, corporation, or department that employs watchmen, security guards or "officers," patrol personnel, or couriers in connection with the business affairs of the employer.
- (14) "Qualifying Agent" means the individual licensee who is responsible for the private protective services business. If the licensee maintains an office in North Carolina, the

Qualifying Agent must be a resident of North Carolina.

- (15) "Registered agent" means the individual resident of North Carolina designated by the business entity in lieu of the Qualifying Agent as allowed by G.S. 74C-8(c)(1) who may be, but is not required to be, the registered agent required by G.S. 55D-30.
- (16) "Restored" means that an individual is no longer in need of psychiatric care as determined by a physician.
- (17) "Temporary unarmed security guard" means an individual who is hired for a period of 30 days or less within a calendar year and who is designated by his or her employer as a temporary security guard at the start of employment.

History Note: Authority G.S. 74C-3; 74C-5; 74C-8; Eff. June 1, 1984; Amended Eff. October 1, 2013; August 1, 1998; May 1, 1988; July 1, 1987; Transferred and Recodified from 12 NCAC 07D .0104 Eff. July 1, 2015; Readopted Eff. August 1, 2020; Amended Eff. March 1, 2022.

14B NCAC 16 .0115 COMPLAINTS

- (a) Any person may file a complaint against any licensee, trainee, registrant or certificate holder, or any unlicensed or unregistered person; acting as or holding himself or herself out as a licensee or registrant, for any violation of G.S. 74C or 14B NCAC 16, or any violation of State or federal criminal law. A complaint form is available on the Board's website at www.ncdps.gov/dps-services/complaint/private-protective-services-board or a copy may be requested from the Board's office.
- (b) The complaint shall set forth all relevant facts and the basis for the complainant's belief that the licensee, trainee, registrant, certificate holder, or unlicensed or unregistered person, is in violation. The complainant shall be willing to be interviewed by the Board's investigator, provide any information or documentation to support the allegation, and appear and testify necessary before the Grievance Committee or at any hearing if requested by the attorney prosecuting the case. An anonymous complaint shall be accepted unless the Director determines that it is meritless on its face.
- (c) The complaint shall be filed with the Board online via e-mail, by U.S. Mail, or by hand-delivery to the Board's office.
- (d) The complaint shall be evaluated by the Director or the Director's designee and if it alleges a violation of G.S. 74C or 14B NCAC 16, shall be assigned to an investigator for further substantiation. The results of the investigation shall be reported to the Board's Grievance Committee for review and action.
- (e) The Director shall notify the complainant and the licensee, trainee, registrant, or certificate holder of the initial complaint and its final disposition.

History Note: Authority G.S. 74C-5; 74C-6; 74C-7; 74C-12; Eff. March 1, 2022.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 12 – LICENSING BOARD FOR GENERAL CONTRACTORS

21 NCAC 12A .0209 ASSUMED NAME APPLICATION

(a) Any application made pursuant to G.S. 87-10 shall be accompanied by a Certificate of Assumed Name filed in accordance with Chapter 66, Article 14A of the General Statutes. Applications submitted to the Board on behalf of corporations, limited liability companies, and partnerships shall be accompanied by a copy of any documents required to be filed with the North Carolina Secretary of State's office, such as Articles of Incorporation or Certificate of Authority.

(b) All licensees shall comply with the requirements of G.S. 66-71.4 and shall notify the Board within 30 days of any change in the name in which the licensee is conducting business in the State of North Carolina.

(c) No applicant or licensee shall use or adopt an assumed name used by any other licensee, or any name so similar to an assumed name used by another licensee that could confuse or mislead the public.

(d) No applicant or licensee that is a legal entity registered with the North Carolina Secretary of State shall use or adopt an assumed name of a separate legal entity registered with the North Carolina Secretary of State.

History Note: Authority G.S. 66-71.4; 87-1; 87-4; 87-10; Eff. August 1, 2000; Amended Eff. April 1, 2014; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. September 1, 2018; Recodified from 21 NCAC 12 .0209 Eff. January 2, 2020; Amended Eff. March 1, 2022.

21 NCAC 12A .0210 BUILDING PROJECTS

If a building project is performed pursuant to G.S. 87-1.1, the total amount of work to be performed by all licensed general contractors shall not exceed 25% of the total bid price. A licensed general contractor shall hold the applicable classifications and limitation for the work undertaken by such licensed general contractor.

History Note: Authority G.S. 87-1.1; 87-4; Eff. April 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Recodified from 21 NCAC 12 .0210 Eff. January 2, 2020; Amended Eff. March 1, 2022.

21 NCAC 12A .0303 APPLICATION FOR LICENSURE

(a) General. Applications for licensure shall contain the following:

- (1) the Social Security Number of examinee(s) and qualifier(s) and tax identification numbers for corporate applicants;
- (2) the applicant's contact information;
- (3) the name of business under which the licensee will be operating, if any;
- (4) requested designation of license limitation and classifications;
- (5) information about all crimes of which the applicant has been convicted;
- (6) certified copies of court records reflecting information regarding all crimes of which the applicant and qualifier(s) have been convicted;
- (7) information indicating whether the applicant or qualifier(s) has any disciplinary history with the Board or any other occupational licensing, registration, or certification agency;
- (8) information establishing financial responsibility as required by G.S. 87-10(a) and Rule .0204 of this Subchapter;
- (9) letters of reference as prescribed in Rule .0308 of this Subchapter; and
- (10) the application fee as set forth in Rule .0304 of this Subchapter.

(b) Criminal Background Check. In addition to the requirements set forth above, all new applicants shall consent to criminal background checks to be performed by a third-party vendor identified by the Board. The cost of the background check shall be paid directly to the vendor. For the purposes of the criminal background check, the following individuals shall submit to the background check, based upon the entity or person applying for the license:

- (1) Sole proprietor license: The sole proprietor;
- (2) Corporation: The president;
- (3) Limited liability company: All managers and members;
- (4) Partnerships (including limited liability partnerships): All partners.

(c) Reciprocity. Applicants based on reciprocity shall submit with the application form a copy of the applicant's license in the other state, certified by the other state licensing board as being a copy of a valid license. Applicants shall have taken and passed the exam offered in the state from which they are seeking reciprocity, or an examination offered by the National Association of State Contractors Licensing Agencies (NASCLA). Applicants shall also be required to take and pass the Board's North Carolina law, rule, and building code examination prior to licensure.

History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. September 1, 2019; April 1, 2018; Recodified from 21 NCAC 12 .0303 Eff. January 2, 2020; Amended Eff. March 1, 2022.

**21 NCAC 12A .0508 REPORTING CRIMINAL
CONVICTIONS AND DISCIPLINARY ACTIONS**

(a) Any licensee who is convicted of any felony or misdemeanor, or who is disciplined by or enters into a conciliation agreement or consent order with any governmental agency in connection with any occupational license, shall file with the Board a Criminal Conviction Disciplinary Action Reporting Form of such conviction or action within 60 days of the final judgment, order, or disposition in the case. The Criminal Conviction Disciplinary Action Reporting Form is available on the Board's website at www.ncbhc.org or upon request to the Board. In the Form, the licensee shall set forth the following:

- (1) full legal name of individual reporting the conviction or conciliation;
- (2) physical and mailing address;
- (3) license number;
- (4) telephone number;
- (5) email address;
- (6) date of birth; and
- (7) description of the criminal conviction and disciplinary action, including the jurisdiction and file number.

(b) For the purposes of reporting under this Rule, the individuals required to report the above-listed information are the same as those required to submit to a criminal background check and identified in Rule .0303 of this Subchapter.

*History Note: Authority G.S. 87-10;
Eff. March 1, 2022.*

**CHAPTER 14 – BOARD OF COSMETIC ART
EXAMINERS**

21 NCAC 14A .0101 DEFINITIONS

In addition to the definitions set forth in G.S. 88B-2, the following definitions apply in this Chapter:

- (1) "Beauty Establishment" refers to both cosmetic art schools and cosmetic art shops.
- (2) "Clean" is the removal of visible and surface debris, washing with soap and water, detergent or chemical cleaner that prepares non-porous items for disinfection and reduces the number and slows the growth of pathogens on both porous and non-porous surfaces. Cleaning does not make multi-use items safe for use.
- (3) "Contact time" is the amount of moist contact time required for a disinfectant to be effective against the pathogens on the manufacturers label. Clean items or surfaces must remain immersed, or visibly wet if using sprays or wipes, for full contact time to be effective.
- (4) "Cosmetology School" is any cosmetic art school that teaches cosmetic art as defined by G.S. 88B-2(5), but is not solely a manicurist or an esthetics school.

- (5) "Cosmetology Student" is a student in any cosmetic art school whose study is the full curriculum.
- (6) "Disinfect" is the process of making a non-porous item safe for use that includes the use of a chemical intended to kill or denature a bacteria, virus or fungus. Items to be disinfected must be cleaned prior to disinfection. UV light is not acceptable for disinfection.
- (7) "Disinfectant" is an EPA registered bactericidal, virucidal and fungicidal disinfectant that is approved for use in beauty salon or salon settings, following instruction label for dilution ratio and contact time, or an EPA registered Sodium Hypochlorite 5.25 percent or higher (household bleach) with instructions for disinfection, diluted as instructed on the label and observing the contact time listed on the manufacturers label. Bleach must be active (not expired) with a manufacture date of less than 6 months prior to use.
- (8) "Esthetician School" is any cosmetic art school that teaches only the cosmetic art of skin care.
- (9) "Esthetician Student" is a student in any cosmetic art school whose study is limited to the esthetician curriculum set forth in 21 NCAC 14T .0604.
- (10) "Licensing cycle" shall be as follows:
 - (a) for cosmetologists, the licensing cycle is a three-year period beginning on the first day of October and ending on the third following first day of October and continuing thereafter in three year intervals;
 - (b) for estheticians, natural hair care specialists and manicurists, the licensing cycle is one year in length beginning on the first day of October and ending on the next first day of October;
 - (c) for teachers, the licensing cycle is a two-year period beginning on the first day of October of an even-numbered year and ending on the next first day of October of the next even-numbered year.
- (11) "Manicurist School" is a cosmetic art school that teaches only the cosmetic art of manicuring.
- (12) "Manicurist Student" is a student in any cosmetic art school whose study is limited to the manicurist curriculum set forth in 21 NCAC 14T .0605.
- (13) "Non-porous" is a material that has no pores and does not allow for liquids to be absorbed or pass through. Common non-porous materials include glass, metal, and plastic.

- (14) "Porous" is a material that has minute spaces or holes through which liquid or air may pass such as paper, foam, and wood. Porous may also be called permeable, penetrable, or cellular.
- (15) "Renewal period" for individual licensees is a three-month period beginning on the first day of July and ending on the first day of October of a renewal year. The "renewal period" for salon licensees is a two-month period beginning on the first day of December and ending on the first day of February of a renewal year.
- (16) "Sterilize" is the eradication of all microbial life through the use of heat, steam, or chemical sterilants. Autoclaves and or dry heat sterilizers used to sterilize must be spore tested through an independent lab every 30 days. Autoclaves or dry heat sterilizers used to sterilize must be FDA approved and used only as instructed by the manufacturer. Spore testing results and maintenance records must be kept onsite for 12 months.
- (17) "Successful Completion" is the completion of an approved cosmetic art curriculum with a minimum grade of "C" or 70 percent, whichever is deemed as passing by the cosmetic art school.
- (18) "Rasp" is a coarse file or metal tool with a roughened surface. A tool with a blade designed to cut or slice is not a rasp.

History Note: Authority G.S. 88B-2; 88B-4;
Eff. February 1, 1976;
Amended Eff. June 1, 1993; October 1, 1991; May 1, 1991;
January 1, 1989;
Temporary Amendment Eff. January 1, 1999;
Amended Eff. October 1, 2012; July 1, 2010; December 1, 2008;
May 1, 2005; December 1, 2004; May 1, 2004; February 1, 2004;
April 1, 2001; August 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Amended Eff. March 1, 2022; September 1, 2018; March 1, 2018.

**21 NCAC 14G .0114 SCHOOL AFFILIATION WITH
COSMETIC ART SHOPS AND OTHER BUSINESS**
**21 NCAC 14G .0115 FAILURE TO COMPLY WITH
RULES**

History Note: Authority G.S. 88-23; 88-30; 88B-4(7a)(9);
Eff. February 1, 1976;
Amended Eff. April 1, 2011; April 1, 1991; January 1, 1989; May
1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Repealed Eff. March 1, 2022.

**21 NCAC 14J .0106 EQUIPMENT FOR BEGINNER
DEPARTMENT**

History Note: Authority G.S. 88B-4;

Eff. February 1, 1976;
Amended Eff. June 1, 2010; May 1, 2007; January 1, 1989; April
1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Repealed Eff. March 1, 2022.

**21 NCAC 14J .0207 LIVE MODEL/MANNEQUIN
PERFORMANCE REQUIREMENTS**

History Note: Authority G.S. 88B-4;
Eff. August 1, 1998;
Amended Eff. April 1, 2011; June 1, 2010; July 1, 2009;
November 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Repealed Eff. March 1, 2022.

21 NCAC 14J .0208 INTERNSHIPS

History Note: Authority G.S. 88B-4;
Temporary Adoption Eff. January 1, 1999;
Eff. August 1, 2000;
Amended Eff. July 1, 2010; August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Repealed Eff. March 1, 2022.

**21 NCAC 14J .0302 EQUIPMENT
21 NCAC 14J .0303 STUDENTS' PERSONAL
SUPPLIES**

History Note: Authority G.S. 88B-4; 88B-14;
Eff. February 1, 1976;
Amended Eff. December 1, 2008; May 1, 2007; January 1, 1989;
April 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Repealed Eff. March 1, 2022.

**21 NCAC 14J .0306 COURSE WORK
REQUIREMENTS FOR BEGINNERS AND ADVANCED**
21 NCAC 14J .0307 TESTS

History Note: Authority G.S. 88-23;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Repealed Eff. March 1, 2022.

**21 NCAC 14J .0501 APPROVAL OF CREDIT FOR
COSMETOLOGY INSTRUCTION/ANOTHER STATE**

History Note: Authority G.S. 88B-16;
Eff. March 2, 1992;
Amended Eff. April 1, 2011; May 1, 2004; August 1, 2000; August
1, 1998; June 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;

Repealed Eff. March 1, 2022.

21 NCAC 14L .0106 APPLICATION TO TAKE EXAMINATION

*History Note: Authority G.S. 88B-7; 88B-8; 88B-9; 88B-10; 88B-16; 88B-18;
Eff. April 1, 1991;
Amended Eff. December 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Repealed Eff. March 1, 2022.*

21 NCAC 14N .0113 RE-EXAMINATION

*History Note: Authority G.S. 88B-4; 88B-18;
Eff. June 1, 1992;
Amended Eff. August 1, 1998; June 1, 1993;
Temporary Amendment Eff. January 1, 1999;
Amended Eff. June 1, 2011; July 1, 2010; May 1, 2007; January 1, 2006; February 1, 2004; August 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Repealed Eff. March 1, 2022.*

21 NCAC 14T .0102 NEW SCHOOL APPLICATIONS

(a) Persons desiring to operate a cosmetic art school in the state of North Carolina shall make application for licensure by submitting to the Board the Board's School Application. The Board's School Application shall include:

- (1) School name;
- (2) Cosmetic Art discipline(s) to be taught;
- (3) Physical address and mailing address;
- (4) Phone number;
- (5) Email address;
- (6) Ownership type;
- (7) Reason for application;
- (8) Owner name;
- (9) School contact person with phone number and email address; and
- (10) List of teachers with cosmetic art license number.

(b) School application forms must be submitted along with supporting documents as follows:

- (1) Proof of bond as required by G.S. 88B-17;
- (2) Diagram with location of equipment placement and marking square footage of all areas including classrooms, dispensary, water supplies, stations, locker room or dressing room, office areas, reception areas, and restroom facilities;
- (3) Course curriculum for each cosmetic art discipline and teacher trainee program to be taught in the school;
- (4) Plans for record keeping of student hours, minimum course requirement qualifications, and student performances;

- (5) The qualifications for passing a performance requirement and techniques for grading of performances;
- (6) Handbook for students containing student policies on attendance, leave of absence policy, performance assignment, and a plan to assist students to achieve the required minimum hours and performances per 21 NCAC 14T .0602-.0610;
- (7) A raised seal identifying the school name and physical location to be used on all Board forms, reports, and other official papers;
- (8) Documentation of local municipality fire, mechanical code, occupancy, electrical and plumbing approval;
- (9) School operation schedule including days, hours, and observed holidays; and
- (10) Signed and notarized statement that the school owner has read and understands the Board's rules in this Subchapter.

(c) The Board shall not approve an application for a license until all plans, furniture, supplies and equipment as prescribed by the rules in this Subchapter have been installed.

(d) The Board shall issue a license to any cosmetic art school that meets the requirements of this Subchapter.

*History Note: Authority G.S. 88B-4; 88B-16; 88B-17;
Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. March 1, 2022; October 1, 2019; December 1, 2016.*

21 NCAC 14T .0201 ALL COSMETIC ART SCHOOLS

(a) Cosmetology schools must have the following physical departments:

- (1) Practice Department – a minimum of 200 square feet with a table or tables and or stands to accommodate at least 10 students and have at least 40 inches between each mannequin. Cosmetic art schools must provide an additional 5 square feet in the practice department for each student over the maximum of 10. This area shall have at least one mirror of a minimum of two square feet.
- (2) Clinic Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
 - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
 - (B) 24 inches from the center of the chair forward;
 - (C) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring table; and

- (D) at least 30 inches of space from the back of each styling chair, esthetics table to the wall of the school.
 - (3) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a sink with hot and cold running water. All cosmetic art schools must have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
 - (4) Theory classroom – classroom with a minimum of 300 square feet to accommodate a maximum of 25 students. Cosmetic art schools must provide an additional 8 square feet in the theory classroom for each student over the maximum of 25;
 - (5) Office – administrative office with a locking door for the secure and locked facilitation of student records and files. This office shall be outfitted with a minimum of one desk and one chair;
 - (6) Reception area – a reception area for clients to wait prior to receiving services;
 - (7) Break room for student use;
 - (8) Restrooms for student and public use;
 - (9) Locker or dressing room – a locker or room for students to secure and lock personal belongings throughout the day; and
 - (10) All stations as defined in Rule .0302 of this Subchapter must be numbered numerically.
- (b) Manicuring, esthetics and natural hair care schools must have the following physical departments:
- (1) Clinic Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
 - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
 - (B) 24 inches from the center of the chair forward;
 - (C) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring table; and
 - (D) at least 30 inches of space from the back of each styling chair or esthetics table to the wall of the school.
 - (2) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements, and a sink with hot and cold running water. All cosmetic art schools shall have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
 - (3) Theory classroom – a room or area with equipment for theory training appropriate to both practical and theory learning including desks and chairs and a table or tables and have at least 40 inches between each mannequin.
 - (4) Office – administrative office with a locking door for the secure and locked facilitation of student records and files. This office shall be outfitted with a minimum of one desk and one chair;
 - (5) Reception area – a reception area for clients to wait prior to receiving services;
 - (6) Break room for student use;
 - (7) Restrooms for student and public use;
 - (8) Locker or dressing room – a locker or room for students to secure and lock personal belongings throughout the day; and
 - (9) All stations as defined in Rule .0304 of this Subchapter must be numbered numerically.
- (c) Each cosmetic art school must display a sign in the reception area meeting the requirements of this Paragraph. The sign cannot be smaller than 12 inches by 18 inches, with lettering at least one and one half inches in size and must read as follows: "Cosmetic Art School Work Done Exclusively by Students."
- (d) Each of the requirements listed within this Rule must be located within the same building with the exception of the theory classroom, which may be located in an adjacent building or another building within 500 feet of the main cosmetic art building and a proctored examination center, which may be located on the school campus. Theory classrooms located in an adjacent building or another building within 500 feet of the main cosmetic art building shall not be used for student practice.
- (e) All Cosmetic Art schools must post hours of operation per cosmetic art discipline and submit this information to the Board. Any changes to the hours of operation must be posted and submitted to the Board. A school shall be considered open by the Board when cosmetic art instruction, services, or performances are provided.
- (f) Cosmetic art schools may not offer student hours or performances unless they are in compliance with Paragraph (a) or (b) of this Rule.
- (g) All cosmetic art schools must adhere to any federal, state and local government regulation or ordinance regarding fire safety codes, mechanical codes, plumbing, and electrical work.
- (h) All cosmetic art schools must maintain a ventilation system with temperature control. During school operating hours the temperature must be maintained between 60 and 85 degrees Fahrenheit.
- (i) All equipment in cosmetic art schools shall be in working order; kept in repair; and installed in such a manner as to facilitate usage.
- (j) All cosmetic art school buildings shall be maintained. Maintenance includes the safe and working condition of the physical building, furniture, equipment and supplies.
- (k) All cosmetic art schools must maintain a bulletin board in sight of the clinic floor. The bulletin board shall be used to display at all times the Board Infection Control rules in 21 NCAC 14H .0200, .0300, .0400, and .0500 and the sanitation grade card issued to the school.
- (l) All cosmetic art schools must post together the school letter of approval, the school license, and all cosmetic art licenses issued to the teachers on staff.
- (m) Each room in a cosmetic art school must be labeled according to its assigned purpose.

(n) Each theory classroom shall be equipped with desks or chairs suitable for classroom work and one chair suitable for demonstrating cosmetic art practices.

(o) When a school and a shop are under the same ownership:

- (1) separate operation of the shop and school shall be maintained;
- (2) if the school and shop are located in the same building, they must be separated by a solid wall of at least seven feet in height; separate entrances and visitor reception areas shall be maintained; and
- (3) the school and shop shall have separate public information releases, advertisements, names, and advertising signs.

(p) A cosmetic art school must maintain space and equipment appropriate to both practical and theory learning, including desks, chairs, and station requirements so that each student in attendance has a location within which to complete assigned tasks. Each station or desk space shall be designated for only one student at a time.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. March 1, 2022; September 1, 2021; October 1, 2019; January 1, 2016.

21 NCAC 14T .0301 EQUIPMENT FOR ALL COSMETIC ART SCHOOLS

All cosmetic art schools shall maintain for student use, in a dispensary, supplies for all cosmetic art services offered in the school. Simulated products may be used for demonstrations and practice, simulated products may not be used for evaluation plan assessments.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. March 1, 2022.

21 NCAC 14T .0612 INSTRUCTION GUIDELINES

- (a) The hours earned in the clinic department must be devoted to study and performance completions.
- (b) Work in the clinic department may be done on the public.
- (c) All work done by students on the public shall be checked by the cosmetic art teacher as the work is being performed and after the service has been completed so that the teacher may point out errors to the student in order that the errors may be corrected.
- (d) Cosmetic art students shall receive training on theory of any cosmetic art service prior to performing that service.
- (e) Theory work shall include lectures on theory subjects as well as demonstrations, questions and answers on textbooks, written examinations, and in-class practice of procedures and methods.
- (f) Cosmetic art teacher trainees must be enrolled in school to earn hours.

(g) Cosmetic art schools shall supply each student with a copy of the North Carolina Cosmetic Art Act, Board rules, and the student handbook.

(h) All of the work outlined in the practice department and the clinic department shall be given to the students through practical demonstrations and lectures, questions and answers on textbooks, and written exam.

(i) A minimum of 10 percent of scheduled attendance time each week shall be spent on theory work as defined in Paragraph (e) of this Rule.

(j) All papers shall be graded and returned to the students.

(k) Cosmetic art students shall receive training and practice only in the discipline in which they are enrolled.

(l) All live model performances on the public shall be done in the clinic department. Mannequin performances and live model performances on other students may be performed in the clinic department or in a room within the school with a station.

(m) Textbooks shall not be used more than five years if a newer version is available.

(n) Schools shall provide textbooks and supplementary educational materials and equipment to students.

(o) A cosmetic art teacher shall not perform clinical services on a client at the cosmetic art school.

(p) Exams administered in a proctored exam site need not be attended by a cosmetic art teacher.

(q) Cosmetic art teachers shall use the respective evaluation plan to verify student competency prior to assigning a live model service.

History Note: Authority G.S. 88B-4; 88B-16; Eff. January 1, 2012;
Amended Eff. June 1, 2013; October 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. March 1, 2022; October 1, 2019; January 1, 2016.

21 NCAC 14T .0617 TEACHER TRAINEES

- (a) A cosmetic art teacher trainee may not perform clinical services on a client at the cosmetic art school.
- (b) A cosmetic art teacher trainee shall be supervised by a cosmetology teacher at all times when the trainee is at a cosmetic art school except as set out in Paragraph (c) of this Rule.
- (c) A manicurist, natural hair care, or esthetician teacher may supervise a cosmetic art teacher trainee with regard to manicuring, natural hair care, or esthetics.
- (d) A cosmetic art teacher trainee program may be a full time program or a part time program. A cosmetic art teacher trainee, however, shall not receive credit for more than 10 hours per day.
- (e) Teacher trainees may present lessons as long as the supervising teacher is present in the classroom.
- (f) Persons receiving teacher training in a cosmetic art school shall be furnished a teacher's manual and shall spend all of their training time under the direct supervision of a licensed cosmetic art teacher and shall not be left in charge of students or the school at any time. Direct supervision is considered as in-person interactive guidance and advising on teacher training topics by a licensed cosmetic art teacher.
- (g) Teacher trainees must be taught how to assess cosmetic art performances using evaluation plans.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Amended Eff. August 1, 2014; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. March 1, 2022.

21 NCAC 14T .0701 SCHOOL OPERATIONS/LICENSURE MAINTENANCE

- (a) No individual shall be given credit for any hours earned in a cosmetic art school before the date the school is granted a license, before the student is enrolled, or after graduation or withdrawal of the student without a new enrollment.
- (b) All Cosmetic Art schools shall submit hours of operation per cosmetic art discipline to the Board. Any changes to the hours of operation shall be submitted to the Board. A school shall be considered open by the Board when cosmetic art instruction, services, or performances are provided.
- (c) Students may be required to clean and disinfect work areas, reception areas, implements, and the dispensary. Students shall not be required to perform maintenance.
- (d) All cosmetic art schools shall adhere to all Board Infection Control Rules located in 21 NCAC 14H Infection Control.
- (e) Cosmetic art schools may permit students to leave the cosmetic art school during instructional time to visit on campus libraries and other educational resource rooms such as computer labs for research and study under the supervision of a cosmetic art instructor.
- (f) Cosmetic art schools shall use the following grading scale as a for passing grades:

Grade A	100-90
Grade B	80-89
Grade C	70-79
Grade F (Fail)	0-69

- (g) In order to graduate, all students shall meet the minimum school and Board requirements as set forth in Rules .0602-.0610 of this Subchapter.
- (h) Examinations shall be administered in all subjects of the cosmetic art curriculum.
- (i) Students present at school earning cosmetic art school hours shall be supervised by a cosmetic art teacher at all times. If a guest lecturer is leading a class, at least one cosmetic art teacher must be present in the lecture.
- (j) All cosmetic art schools shall provide:
 - (1) One teacher for every 25 students enrolled in the practice department;
 - (2) One teacher for every 20 students during practical work on live models in the clinic department; and
 - (3) Each Cosmetic art teacher may have up to five teacher trainees, in addition to the ratios set forth in Subparagraph (j)(1) and (2).
- (k) In theory classes, the teacher student ratio may exceed the ratios established in this Rule.
- (l) A teacher may administer instruction to up to 10 students enrolled in practice and clinic departments at the same time. A

teacher shall not administer instruction to more than 10 students enrolled in practice and clinic departments at the same time.
 (m) At no time can any one teacher be simultaneously responsible for students in a theory class and students in practice on the clinic floor.
 (n) In cases of change in teaching staff, the school shall notify the Board of the change in writing prior to beginning instruction. A change in teaching staff includes any substitution for the regularly scheduled teacher and any change, scheduled or otherwise, in the list of teachers last given to the Board.

- (1) All courses in a cosmetic art school shall be taught by a licensed cosmetology teacher, except as follows:
 - (A) manicuring courses shall be taught by either a licensed cosmetology teacher or a licensed manicurist teacher;
 - (B) natural hair care courses shall be taught by either a licensed cosmetology teacher or a licensed natural hair care teacher;
 - (C) esthetics courses shall be taught by either a licensed cosmetology teacher or a licensed esthetician teacher.
- (2) A licensed cosmetologist not licensed as a cosmetology teacher may substitute for a cosmetology, esthetician, natural hair care or manicurist teacher; a licensed manicurist not licensed as a manicurist teacher may substitute for a manicurist teacher; a licensed natural hair care specialist not licensed as a natural hair care teacher may substitute for a natural hair care teacher; and a licensed esthetician not licensed as an esthetician teacher may substitute for an esthetician teacher.

- (o) In no event may any cosmetic art licensee substitution last for more than 15 consecutive working days per year per teacher. If any teacher substitution is 16 consecutive days or longer, the school shall provide a new cosmetic art teacher.
- (p) Enrolled students may earn a maximum of 10 hours per day per discipline of cosmetic art and a maximum of 48 hours per week per discipline. Online education can be earned in addition to the maximum daily and weekly hours. A student enrolled in more than one cosmetic art discipline may not earn hours or complete performances concurrently.
- (q) The Board shall certify student hours for any North Carolina cosmetic art school that is closed. The Board shall not certify student hours between any North Carolina open cosmetic art schools. The Board shall certify student hours earned at North Carolina cosmetic art schools to other state boards and schools open outside of the state of North Carolina as set forth in Rule .0502 of this Subchapter.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; Eff. February 1, 2012; Amended Eff. August 1, 2014; June 1, 2013; October 1, 2012; Readopted Eff. January 1, 2016; Amended Eff. March 1, 2022; October 1, 2019; December 1, 2016.

21 NCAC 14T .0706 SCHOOL APPROVAL CHANGES AND SCHOOL CLOSING

(a) If the location of a cosmetic art school changes or if there is a transfer of majority ownership of a cosmetic art school, whether by sale, lease, or otherwise, the school owner shall submit a new application for approval in accordance with Rule .0102 of this Subchapter.

(b) License and letters of approval issued to cosmetic art schools are not transferrable, and are valid only for the location, square footage, and enrollment capacity for which issued, and to the owner to whom issued. The letter of approval shall contain the school name, school owner name, school location, date of approval, the amount of approved square footage, and the maximum number of enrollments for which the school has been approved.

(c) Schools intending to close must notify the Board not less than 30 days in advance.

(d) Schools must make provisions for the long term storage of school documents as set forth in Rule .0502 of this Subchapter, and facilitate the retrieval of any school documents upon the request of a student or the Board. Schools shall notify the Board of the contact information for retrieval of any school information.

(e) Schools must facilitate and cooperate in the final inspection and processing of student hours.

(f) If the square footage or instructional layout of a cosmetic art school changes, the school shall notify the Board of the change and submit a diagram of the new instructional layout. Following receipt of the notification of the change in the instructional layout or square footage, a Board inspector shall verify the change.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. March 1, 2022; September 1, 2021.

CHAPTER 16 – BOARD OF DENTAL EXAMINERS**21 NCAC 16U .0103 REPORTS FROM THE CONTROLLED SUBSTANCES REPORTING SYSTEM**

(a) Pursuant to G.S. 90-113.74(b1)(2), the Department of Health and Human Services (DHHS) may report to the Board information regarding the prescribing practices of those dentists who have issued:

- (1) at least 10 prescriptions for an opioid with at least 75 morphine milligram equivalents per day;
- (2) a benzodiazepine and an opioid to at least five patients where the patient's prescriptions overlap for at least two days; or
- (3) at least five "atypical prescriptions," which is defined as either:
 - (A) medications classified as a stimulant, muscle relaxant, or hypnotic; or
 - (B) at least 120 doses of an opioid or benzodiazepine.

(b) Pursuant to G.S. 90-113.74(b1)(2), DHHS may report to the Board information regarding the prescribing practices of those dentists who have had a patient death due to opioid poisoning where the dentist prescribed 30 or more tablets of an opioid to the patient within 60 days of the patient's death.

(c) Pursuant to G.S. 90-113.74(c)(7), DHHS may submit reports to the Board upon the Board's request for information regarding the prescribing practices of specific dentists, containing the information described in G.S. 90-113.73(b).

(d) The reports and communications between DHHS and the Board shall remain confidential pursuant to G.S. 90-41 and G.S. 90-113.74.

History Note: Authority G.S. 90-41; 90-48; 90-113.74;

Eff. July 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;

Amended Eff. March 1, 2022.

CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD**21 NCAC 22A .0401 DEFINITIONS AND INTERPRETATIONS**

(a) The rules of statutory construction concerning number and gender as contained in G.S. 12-3(1) shall be applied in the construction of these Rules.

(b) The definitions contained in the Food and Drug Administration Standards concerning Hearing Aid Devices, Title 21 of the Code of Federal Regulations Part 801.420, as published in the 42nd Volume of the Federal Register (February 15, 1977) page 9294 are incorporated herein by reference, not including subsequent amendments or editions of the referenced materials, with the following additions and amendments:

(1) "Reconditioned" shall mean that the condition of the hearing aid is the same as a used hearing aid.

(2) "Audiologist" shall mean any individual holding a valid non-temporary license as an audiologist issued by the North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists.

(c) The definitions cited in this Section shall serve as interpretations for terms appearing in Chapter 93D of the General Statutes of North Carolina and in these Rules.

(1) "Advertising" means a written or oral communication that is published, disseminated, circulated, or placed before the public for the purpose of attracting public attention to a product, business, or service.

(2) "Apprentice" means an individual who holds a valid Board-issued apprentice registration certificate to fit and sell hearing aids under the supervision of a Registered Sponsor.

(3) "Audiometer" means an electronic device used for air conduction testing, bone conduction testing and obtaining speech audiometry results

- that contains a masking circuit, at least one VU meter, and capability of sound field output.
- (4) "Direct supervision" means the Registered Sponsor shall be present in the office suite and immediately available to furnish assistance and direction to the Apprentice. It does not mean that the Registered Sponsor must be present in the room with the Apprentice when the Apprentice is fitting and selling hearing aids or completing associated contracts or other paperwork.
- (5) "Duly made application" means a completed application received in the office of the Board, including all required documents, photographs, fees, and supplemental information requested in the application.
- (6) "General supervision" means the Apprentice is under the Registered Sponsor's overall direction and control, but the Registered Sponsor's presence is not required when the Apprentice is fitting and selling hearing aids or completing associated contracts or other paperwork. Under general supervision, the training of the Apprentice, including instruction, consultation and on-site inspection and evaluation of the Apprentice's work, and the maintenance of the necessary equipment and supplies are the continuing responsibility of the Registered Sponsor.
- (7) "One full year of apprenticeship" means that an apprentice satisfies each of the following requirements within 24 consecutive months from the date of issuance of the initial apprentice registration certificate:
- (A) works under the supervision of a Registered Sponsor for a minimum of 27 clock hours per week for a period of 50 weeks; and
 - (B) holds a valid apprentice registration certificate for a period of 365 calendar days.
- (8) "Personal supervision" means the Apprentice is under the Registered Sponsor's specific direction and control for training and instruction, and the Registered Sponsor shall be in attendance in the room with the Apprentice during:
- (A) the evaluation or measurement of the powers or range of human hearing by means of an audiometer or by other means;
 - (B) the consequent selection, adaptation, sale, or rental of hearing aids intended to compensate for hearing loss;
 - (C) the making of an impression of the ear; and
 - (D) the completion of any associated contracts and other paperwork.

- (9) "Registered Applicant" means any individual, including an apprentice, approved and registered to sit for the next scheduled licensing exam.
- (10) "Registered Sponsor" means a person with a permanent license as an audiologist under Article 22 of Chapter 90 of the General Statutes who is registered in accordance with G.S. 93D-3(c)(16), or a licensee of the Board who has been approved as a sponsor of an apprentice.

History Note: Authority G.S. 93D-1.1; 93D-3(c); 93D-9; 93D-13;
Eff. September 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016;
Amended Eff. March 1, 2022.

21 NCAC 22F .0302 SPONSOR'S DUTIES

- (a) The registered sponsor shall obtain a Registered Sponsor Certificate from the Board before accepting any apprentice. The Board shall issue a Registered Sponsor Certificate to a licensee of this Board who has held a permanent license for a minimum of two years prior to becoming a registered sponsor. The Certificate requires the registered sponsor to perform all the duties within the scope of the role of registered sponsor outlined in this Subchapter. The registered sponsor shall assist the apprentice in submitting all required applications and reports of the apprenticeship experience and shall act as a liaison between the Board and the apprentice.
- (b) In accepting an apprentice, the registered sponsor shall be responsible for the conduct of the apprentice in his or her performance of his or her duties as an apprentice.
- (c) The registered sponsor shall provide an apprentice personal supervision until receiving an Official Notice of Examination Results as provided in Rule .0107 of this Subchapter confirming that the apprentice passed Part A, Part B, and Part C of the licensing exam. Upon receipt the registered sponsor shall provide an apprentice general supervision for the remainder of the apprenticeship. A registered sponsor providing general supervision may incorporate direct or personal supervision at the discretion of the registered sponsor. General, direct, and personal supervision are defined in 21 NCAC 22A .0401.
- (d) The registered sponsor shall provide the apprentice training in the following areas:
- (1) anatomy, physiology, and pathology of the auditory mechanism;
 - (2) measurement techniques and test interpretation for assessment of hearing impairment and hearing handicap;
 - (3) hearing aid technology including instrument circuitry and acoustic performance data;
 - (4) design, selection, and modification of ear mold or shell coupling systems;
 - (5) hearing aid selection procedures and fitting, verification, and adjustment techniques;
 - (6) post-delivery care, including hearing aid orientation, counseling techniques, and hearing aid servicing;

- (7) ethical conduct as set forth in 21 NCAC 22J and regulatory issues concerning the fitting and selling of hearing aids; and
- (8) all areas within the scope of practice as defined in G.S. 93D-1.1.

(e) A registered sponsor may only supervise one apprentice under personal supervision and one apprentice under general supervision at any given time. Failure by a registered sponsor to properly train or supervise an apprentice shall be grounds for disciplinary action and revocation of the Registered Sponsor Certificate after notice and hearing as set forth in Subchapter 22L. If the Sponsorship Certificate is revoked by the Board, the licensee shall be no longer eligible to act as a registered sponsor until or unless the Board reinstates the Sponsorship Certificate.

History Note: Authority G.S. 93D-1.1; 93D-3(c); 93D-9; 93D-13;
Eff. April 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016;
Amended Eff. March 1, 2022.

CHAPTER 46 – BOARD OF PHARMACY

21 NCAC 46 .1417 REMOTE MEDICATION ORDER PROCESSING SERVICES

History Note: Authority G.S. 90-85.6; 90-85.21; 90-85.21A; 90-85.26; 90-85.32; 90-85.34;
Eff. February 1, 2006;
Amended Eff. December 1, 2015; March 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;
Repealed Eff. March 1, 2022.

21 NCAC 46 .1816 CENTRALIZED PHARMACY SERVICES

(a) This Rule sets out the requirements under which pharmacies may engage in "centralized pharmacy services," which consist of both centralized prescription filling services and remote medication order processing services, as defined in this Rule, with respect to any prescription to be dispensed by a pharmacy located within this State, or shipped, mailed, or delivered in any manner into this State.

(b) Regardless of whether located within or outside the State of North Carolina, the following requirements apply to any pharmacy involved with any part of the practice of pharmacy in centralized pharmacy services:

- (1) The pharmacies must be permitted by the Board before providing any centralized pharmacy services.
- (2) The pharmacies must either:
 - (A) Be owned by the same person or entity; or
 - (B) Before dispensing any prescription within or into this State, must have entered into a written contract that

specifies the services to be provided and the responsibilities and accountabilities of each pharmacy to ensure compliance with state and federal statutes, rules, and regulations.

(3) The pharmacies must share a real-time, online database, or have technology to allow secure access to the pharmacies' information system and to provide access to the information required to provide centralized pharmacy services in compliance with state and federal statutes, rules, and regulations.

(4) The pharmacies, their pharmacist-managers, and their pharmacy personnel must comply with all provisions of the Pharmacy Practice Act, this Chapter and all other State of North Carolina and federal statutes, rules, and regulations applicable to the practice of pharmacy and the distribution of drugs, devices, and medical equipment, in addition to the statutes, rules, and regulations of the state(s) in which the pharmacies are located (if not located in North Carolina) and into which any drugs, devices, or medical equipment are shipped and dispensed (if not North Carolina). The pharmacies, their pharmacist-managers, and their pharmacy personnel are responsible for ensuring that these statutes, rules, and regulations are followed.

(5) The pharmacies must notify the Board before providing centralized pharmacy services.

(c) Centralized prescription filling services.

(1) "Centralized prescription filling services" consist of a receiving pharmacy receiving a prescription from an originating pharmacy, processing that prescription, and either:

- (A) Delivering the drug, device, or medical equipment to the originating pharmacy for dispensing to the patient; or
- (B) Delivering the drug, device, or medical equipment directly to the patient, if the patient requests delivery from the receiving pharmacy.

(2) In this Rule, the "originating pharmacy" is the pharmacy that was presented the prescription, whether by the patient or the prescriber or by transfer. In this Rule, the "receiving pharmacy" is the pharmacy that processes the prescription and delivers the drug, device, or medical equipment as set forth in Subparagraph (c)(1) of this Rule.

(3) The receiving pharmacy may process a request for the filling or refilling of a prescription order received by the originating pharmacy, provided:

- (A) Both the originating pharmacy and the receiving pharmacy satisfy the

- requirements in Paragraph (b) of this Rule.
- (B) The drug, device, or medical equipment is labeled with both the name and address of the receiving pharmacy and the name and address of the originating pharmacy; and
 - (C) The originating pharmacy satisfies all responsibility for compliance with the requirements of Federal and State statutes, rules, and regulations regarding recordkeeping and patient counseling, and the receiving pharmacy further maintains all required records of each prescription for at least three years.
- (4) Centralized prescription filling services do not include prescriptions that are either:
- (A) Transferred to another pharmacy to perform all acts related to dispensing or delivery, including recordkeeping and counseling, for which the pharmacies shall comply with the requirements for the originating pharmacy to transfer the prescription under Rule .1806 of this Chapter; or
 - (B) Prescriptions for which remote order processing services are performed, but all physical acts in the dispensing process are performed by the pharmacy to which the prescription was presented, for which the pharmacies shall comply with the requirements for remote medication order processing services in Paragraph (d) of this Rule.
- (d) Remote medication order processing services.
- (1) "Remote medication order processing services" consist of a pharmacy performing some act in the practice of pharmacy, other than a physical act in the dispensing process, for another pharmacy that dispenses a drug, device, or medical equipment. Remote medication order processing services include the following:
 - (A) receiving, interpreting, or clarifying medication orders;
 - (B) entering data and transferring medication order information;
 - (C) performing drug regimen review;
 - (D) interpreting patient clinical data to ensure proper prescription drug therapy;
 - (E) performing therapeutic interventions; and
 - (F) providing patient counseling or other drug information to patients and providers concerning prescriptions or drugs, devices, or medical equipment; however, if the drug, device or medical equipment is dispensed in person to the patient or the patient's agent, an offer must be made for a pharmacist at the dispensing pharmacy to counsel the patient in accordance with the requirements of Rule .2504 of this Chapter.
- (2) In this Rule, the "dispensing pharmacy" is the pharmacy that was presented the prescription and dispenses the drug, device, or medical equipment. In this Rule, a "remote medication order processing pharmacy" is a pharmacy that provides an act in the practice of pharmacy for the dispensing pharmacy pursuant to this Rule.
- (3) The remote medication order processing pharmacy may provide remote medication order processing services for the dispensing pharmacy, provided:
- (A) The dispensing pharmacy and the remote medication order processing pharmacy satisfy the requirements in Paragraph (b) of this Rule.
 - (B) The pharmacies involved in remote medication order processing services jointly develop, maintain, and follow a manual of policies and procedures that include policies and procedures for:
 - (i) operation of the system described in Subparagraph (b)(3) of this Rule;
 - (ii) following the dispensing pharmacy's policies regarding medication order processing;
 - (iii) defining and ensuring the performance of each pharmacy's responsibilities;
 - (iv) maintaining contact information for how to communicate with the pharmacies at all times when remote medication order processing services are performed;
 - (v) training and annual review of pharmacy personnel of the remote medication order processing pharmacy;
 - (vi) communicating and resolving questions or problems arising during the remote medication order processing services;
 - (vii) communicating changes in the formulary to pharmacy personnel;
 - (viii) protecting the confidentiality and integrity of patient information;

- (ix) identifying the name(s), initial(s) or identification code(s) and specific activity or activity of each pharmacy personnel who perform any remote medication order processing services;
- (x) complying with all state and federal laws;
- (xi) operating a quality improvement program designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, to pursue opportunities to improve patient care, and resolve identified problems;
- (xii) updating these policies and procedures any time changes are necessary; and
- (xiii) communicating changes in these policies and procedures to pharmacy personnel.
- (C) The policy and procedures manual is reviewed at least annually, updated as needed, and any review and changes are documented and communicated to all pharmacy personnel.
- (D) The remote medication order processing pharmacy trains all pharmacy personnel providing remote medication order processing services on the policies and procedures required by Part (B) of this Subparagraph. The pharmacist-manager of the remote medication order processing pharmacy must ensure that pharmacy personnel are able to perform at the same level of competence, attention, and proficiency as if the personnel were in the dispensing pharmacy. The pharmacist-manager shall document all training.
- (E) All remote medication order processing services are provided at a site operated by a remote medication order processing pharmacy, located within the United States, and with access to the technology required in Subparagraph (b)(3) of this Rule. This may include a remote site outside of the remote medication order processing pharmacy, so long as all requirements of state and federal statutes, rules, and regulations, including this Rule, are satisfied.
- (F) Each remote medication order processing pharmacy must notify the Board of each pharmacist who will provide remote medication order processing services before those pharmacy personnel perform any such services.
- (G) In order for the Board to ensure continual monitoring of pharmacist good standing, each pharmacist who will provide remote medication order processing services must either hold a North Carolina license to practice pharmacy or participate in the NABP Verify service before and at all times when that pharmacist provides remote medication order entry services. The remote medication order entry pharmacy must provide the NABP Verify information for each pharmacist when it notifies the Board that the pharmacist may provide remote medication order entry services.
- (H) Pharmacy technicians may perform remote medication order processing services only if they are registered or otherwise permitted to work as a pharmacy technician in their home state. While pharmacy technicians either within or outside of this State may perform remote medication order processing services, pharmacy technicians may provide only those remote medication order processing services that both (a) they are permitted to perform under the laws of the state in which they are located, and (b) pharmacy technicians are permitted to perform under G.S. 90-85.3(q2), regardless of where they are located.
- (I) The remote medication order processing pharmacy, its pharmacist-manager, and its pharmacy personnel are responsible for compliance with all state and federal statutes, rules and regulations and the pharmacies' policies and procedures governing the provision of remote medication order processing services.
- (J) The dispensing pharmacy satisfies all responsibility for compliance with the requirements of state and federal statutes, rules, and regulations regarding recordkeeping, and the records document the activities of each pharmacy personnel providing remote medication order processing

services and the specific activity or activities performed by each person.

These records shall be maintained for a period of at least three years.

- (4) Remote medication order processing services do not include services with respect to prescriptions in which some physical act in the dispensing process is performed by a pharmacy other than the dispensing pharmacy. If a pharmacy receiving a prescription from a patient or prescriber or by transfer wishes for another pharmacy to perform a physical act in the dispensing process, it must either transfer the prescription to that pharmacy under Rule .1806 of this Chapter, or follow the procedures

for centralized prescription filling services in this Rule.

- (e) Nothing in this Rule relieves a pharmacy receiving centralized pharmacy services (i.e., an originating pharmacy or a dispensing pharmacy) of the need to provide on-site services required for permitting as provided in the Pharmacy Practice Act and this Chapter.

History Note: Authority G.S. 90-85.6; 90-85.21; 90-85.21A; 90-85.26; 90-85.32; 90-85.34;

Eff. August 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;

Amended Eff. March 1, 2022.

This Section contains information for the meeting of the Rules Review Commission April 21, 2022 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Jeanette Doran (Chair)
Robert A. Bryan, Jr. (2nd Vice Chair)
Margaret Currin
Jeff Hyde
Robert A. Rucho

Appointed by House

Andrew P. Atkins (1st Vice Chair)
Wayne R. Boyles, III
Barbara A. Jackson
Randy Overton
Paul Powell

COMMISSION COUNSEL

Brian Liebman 984-236-1948
Lawrence Duke 984-236-1938
William W. Peaslee 984-236-1939

RULES REVIEW COMMISSION MEETING DATES

April 21, 2022 June 16, 2022
May 19, 2022 July 21, 2022

AGENDA**RULES REVIEW COMMISSION**

Thursday, April 21, 2022, 9:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Environmental Management Commission - 15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 (Liebman)
- IV. Review of Filings (Permanent Rules) for rules filed between February 22, 2022 through March 21, 2022
 - Board of Agriculture (Duke)
 - DHHS - Division of Health Benefits (Duke)
 - Department of Labor (Duke)
 - Alcoholic Beverage Control Commission (Duke)
 - Department of Environmental Quality (Duke)
 - Environmental Management Commission (Duke)
 - Marine Fisheries Commission 15A NCAC 03 (Liebman)
 - Coastal Resources Commission (Duke)
 - Wildlife Resources Commission (Duke)
 - Marine Fisheries Commission 15A NCAC 18A (Liebman)
 - Medical Board (Duke)
 - Board of Pharmacy (Liebman)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting

- VI. Existing Rules Review
- VII. Commission Business
- Designation of Rulemaking Coordinator
 - Next meeting: May 19, 2022
-

Commission Review
Log of Permanent Rule Filings
February 22, 2022 through March 21, 2022

AGRICULTURE, BOARD OF

The rules in Chapter 38 are enforced by the standards division and include purpose and definitions (.0100); approval of weighing and measuring devices (.0200); package and labeling requirements (.0300); method of sale and commodities (.0400); leaf tobacco (.0500); sale of petroleum products (.0600); standards for storage, handling and installation of LP gas (.0700); and liquid fertilizers (.0800).

Notification for Disconnection of Service 02 NCAC 38 .0705
 Amend*

The rules in Subchapter 52L concern farmed cervids including farmed cervid license and permit (.0100); enclosure requirements (.0200); enforcement (.0300); and herd certification programs (.0400).

Incorporation by Reference 02 NCAC 52L .0101
 Amend*

Definitions 02 NCAC 52L .0102
 Amend*

Farmed Cervid License 02 NCAC 52L .0104
 Amend*

Denial of Farmed Cervid License 02 NCAC 52L .0105
 Amend*

Temporary Exhibit Permit 02 NCAC 52L .0106
 Amend*

Records and Inspection 02 NCAC 52L .0109
 Amend*

Escape, Disappearance, or Breach of Facility 02 NCAC 52L .0110
 Amend*

Reporting CWD Symptoms and Farmed Cervid Death 02 NCAC 52L .0111
 Amend*

Animal Identification 02 NCAC 52L .0112
 Amend*

Transportation Permit 02 NCAC 52L .0113
 Amend*

Enclosure Requirements 02 NCAC 52L .0201
 Amend*

License or Permit Revocation, Forfeiture, and Depopulation 02 NCAC 52L .0301
 Amend*

North Carolina Farmed Cervid Herd Certification Program 02 NCAC 52L .0401
 Amend*

North Carolina Monitored Herd Certification Program 02 NCAC 52L .0402
 Repeal*

HHS - HEALTH BENEFITS, DIVISION OF

The rules in Chapter 23 concern the administration of medical assistance.

The rules in Subchapter 23A concern general administration of the program.

<u>Definitions</u>	10A	NCAC	23A	.0102
Amend*				

LABOR, DEPARTMENT OF

The rules in Subchapter 1B concern rule-making and administrative hearing procedures.

<u>Instructions for Filing a Petition for Rulemaking</u>	13	NCAC	01B	.0101
Amend*				

<u>Mailing List</u>	13	NCAC	01B	.0102
Amend*				

<u>Disposition of Petitions</u>	13	NCAC	01B	.0103
Repeal*				

ALCOHOLIC BEVERAGE CONTROL COMMISSION

The rules in Subchapter 15C concern industry members, retail/industry member relationships, ship chandlers, air carriers, and fuel alcohol including definitions and application procedures (.0100); product approvals, listing procedures and product lists (.0200); packaging and labeling of malt beverages and wine (.0300); standards of identity for wine containers (.0400); general provisions for industry members (.0500); sales and deliveries of malt beverages and wine (.0600); alcoholic beverages, retailer/industry member relationship and trade practices (.0700); ships chandler's permit (.0800); distillers and representatives (.0900); air carriers (.1000); fuel alcohol permits (.1100); administrative action by commission (.1200); and special event permits (.1300).

<u>Growlers</u>	14B	NCAC	15C	.0307
Amend*				

ENVIRONMENTAL QUALITY, DEPARTMENT OF

The rules in Chapter 1 are general rules covering the department, its organization, and certain specific programs.

The rules in Subchapter 1C cover provisions for conforming with the NC Environmental Policy Act and cover general provisions (.0100); integration with agency activity (.0200); special circumstances (.0300); minimum criteria (.0400); and minimum criteria (.0500).

<u>Statement of Purpose, Policy, and Scope</u>	15A	NCAC	01C	.0101
Readopt with Changes*				

<u>Definitions</u>	15A	NCAC	01C	.0103
Readopt with Changes*				

<u>Agency Compliance</u>	15A	NCAC	01C	.0104
Readopt with Changes*				

<u>Lead and Cooperating Divisions Responsibility</u>	15A	NCAC	01C	.0105
Readopt with Changes*				

<u>Scoping and Hearings</u>	15A	NCAC	01C	.0106
Readopt with Changes*				

<u>Limitation on Actions During NCEPA Process</u>	15A	NCAC	01C	.0107
Readopt with Changes*				

<u>Emergencies</u>	15A	NCAC	01C	.0108
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Readopt with Changes*				
<u>Preparation of Environmental Documents</u>	15A	NCAC	01C	.0109
Readopt with Changes*				
<u>Implementation</u>	15A	NCAC	01C	.0205
Readopt/Repeal*				
<u>When to Prepare Environmental Documents</u>	15A	NCAC	01C	.0206
Readopt with Changes*				
<u>Incorporation by Reference</u>	15A	NCAC	01C	.0207
Readopt with Changes*				
<u>Incomplete or Unavailable Information</u>	15A	NCAC	01C	.0208
Readopt with Changes*				
<u>Activities Above the Minimum Criteria</u>	15A	NCAC	01C	.0304
Readopt/Repeal*				
<u>Activities Undertaken by DEQ</u>	15A	NCAC	01C	.0305
Readopt with Changes*				
<u>Activities of a Special Nature</u>	15A	NCAC	01C	.0306
Readopt with Changes*				
<u>Purpose of the Minimum Criteria Thresholds</u>	15A	NCAC	01C	.0405
Readopt with Changes*				
<u>Sampling, Survey, Monitoring, and Related Research Activi...</u>	15A	NCAC	01C	.0406
Readopt with Changes*				
<u>Standard Maintenance or Repair Activities</u>	15A	NCAC	01C	.0407
Readopt with Changes*				
<u>Minor Construction Activities</u>	15A	NCAC	01C	.0408
Readopt with Changes*				
<u>Management Activities</u>	15A	NCAC	01C	.0409
Readopt with Changes*				
<u>Private Use of Public Lands</u>	15A	NCAC	01C	.0410
Readopt with Changes*				
<u>Remediation Activities</u>	15A	NCAC	01C	.0411
Readopt with Changes*				

The rules in subchapter 1D concern project certification relating to industrial and private pollution control revenue bond.

<u>Definitions of Terms</u>	15A	NCAC	01D	.0102
Readopt with Changes*				
<u>Proposed Industrial Project</u>	15A	NCAC	01D	.0302
Readopt with Changes*				
<u>Proposed Pollution Control Project</u>	15A	NCAC	01D	.0303
Readopt with Changes*				
<u>Proposed Hazardous Waste Facility</u>	15A	NCAC	01D	.0305
Adopt*				

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards used to classify the waters of the state (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

<u>Definitions</u>	15A	NCAC	02B	.0202
Amend*				
<u>Standards for Toxic Substances and Temperature</u>	15A	NCAC	02B	.0208
Amend*				

<u>Fresh Surface Water Quality Standards for Class C Waters</u> Amend*	15A	NCAC	02B	.0211
<u>Fresh Surface Water Quality Standards for Class WS-I Waters</u> Amend*	15A	NCAC	02B	.0212
<u>Fresh Surface Water Quality Standards for Class WS-II Waters</u> Amend*	15A	NCAC	02B	.0214
<u>Fresh Surface Water Quality Standards for Class WS-III Wa...</u> Amend*	15A	NCAC	02B	.0215
<u>Fresh Surface Water Quality Standards for Class WS-IV Waters</u> Amend*	15A	NCAC	02B	.0216
<u>Fresh Surface Water Quality Standards for Class WS-V Waters</u> Amend*	15A	NCAC	02B	.0218
<u>Fresh Surface Water Quality Standards for Class B Waters</u> Amend*	15A	NCAC	02B	.0219
<u>Tidal Salt Water Quality Standards for Class SC Waters</u> Amend*	15A	NCAC	02B	.0220
<u>Classifications: General</u> Amend*	15A	NCAC	02B	.0301
<u>Cape Fear River Basin</u> Amend*	15A	NCAC	02B	.0311

MARINE FISHERIES COMMISSION

The rules in Subchapter 3I are general and miscellaneous rules.

<u>Definitions</u>	15A	NCAC	03I	.0101
Readopt with Changes*				
<u>Introduce, Transfer, or Hold Imported Marine and Estuarin...</u>	15A	NCAC	03I	.0104
Readopt with Changes*				
<u>Leaving Devices Unattended</u>	15A	NCAC	03I	.0105
Readopt with Changes*				
<u>Research Sanctuaries</u>	15A	NCAC	03I	.0109
Readopt with Changes*				
<u>Biological Sampling</u>	15A	NCAC	03I	.0113
Readopt with Changes*				
<u>Recordkeeping Requirements</u>	15A	NCAC	03I	.0114
Readopt with Changes*				
<u>Disposal of Evidence</u>	15A	NCAC	03I	.0118
Readopt with Changes*				

The rules in Subchapter 3J concern the use of nets in general (.0100) and in specific areas (.0200); the use of pots, dredges, and other fishing devices (.0300); fishing gear (.0400); and pound nets (.0500).

<u>Fixed or Stationary Nets</u>	15A	NCAC	03J	.0101
Readopt with Changes*				
<u>Purse Seines</u>	15A	NCAC	03J	.0105
Readopt with Changes*				
<u>Long Haul and Swipe Net Requirements</u>	15A	NCAC	03J	.0109
Readopt with Changes*				
<u>Seines</u>	15A	NCAC	03J	.0110
Readopt with Changes*				
<u>Pots</u>	15A	NCAC	03J	.0301
Readopt with Changes*				

<u>Recreational Use of Pots</u> Readopt with Changes*	15A NCAC 03J .0302
<u>Trotlines (Multiple Hook or Multiple Bait)</u> Readopt with Changes*	15A NCAC 03J .0305
<u>Ocean Artificial Reef Gear Restrictions</u> Adopt*	15A NCAC 03J .0404
<u>Definitions and Standards for Pound Nets and Pound Net Sets</u> Readopt with Changes*	15A NCAC 03J .0501
<u>Pound Net Set Permit Application and Processing</u> Readopt with Changes*	15A NCAC 03J .0502
<u>Pound Net Set Permit Renewal</u> Readopt with Changes*	15A NCAC 03J .0503
<u>Pound Net Set Permit Transfer</u> Readopt with Changes*	15A NCAC 03J .0504
<u>Pound Net Set Permit Conditions</u> Readopt with Changes*	15A NCAC 03J .0505
The rules in subchapter 3K concern oyster, clams, scallops, and mussels including shellfish, general (.0100); crabs (.0200); hard clams (mercenaria) (.0300); rangia clams (.0400); and scallops (.0500).	
<u>Prohibited Activities in Polluted Shellfish Areas</u> Readopt with Changes*	15A NCAC 03K .0101
<u>Rakes Prohibited</u> Readopt with Changes*	15A NCAC 03K .0102
<u>Shellfish Management Areas</u> Readopt with Changes*	15A NCAC 03K .0103
<u>Permits for Relaying Shellfish from Polluted Areas</u> Readopt with Changes*	15A NCAC 03K .0104
<u>Recreational Harvest of Shellfish</u> Readopt with Changes*	15A NCAC 03K .0105
<u>Taking or Unloading Oysters and Clams on Sunday or at Night</u> Readopt with Changes*	15A NCAC 03K .0106
<u>Depuration of Clams and Oysters</u> Readopt with Changes*	15A NCAC 03K .0107
<u>Dredges and Mechanical Methods Prohibited</u> Readopt with Changes*	15A NCAC 03K .0108
<u>Shellfish Harvest Tags</u> Readopt with Changes*	15A NCAC 03K .0109
<u>Permits to Use Mechanical Methods for Shellfish on Shellf...</u> Readopt/Repeal*	15A NCAC 03K .0111
<u>Oyster Harvest Management</u> Readopt with Changes*	15A NCAC 03K .0201
<u>Culling Requirements for Oysters</u> Readopt with Changes*	15A NCAC 03K .0202
<u>Mechanical Methods for Oystering Prohibited</u> Readopt with Changes*	15A NCAC 03K .0204
<u>Marketing Oysters Taken from a Shellfish Lease or Franchise</u> Readopt with Changes*	15A NCAC 03K .0205
<u>Oyster Size and Harvest Limit Exemptions</u> Readopt with Changes*	15A NCAC 03K .0207
<u>Seed Oyster Management Areas</u> Readopt with Changes*	15A NCAC 03K .0208
<u>Oyster Sanctuaries</u>	15A NCAC 03K .0209

Readopt with Changes*	
<u>Size and Harvest Limits of Clams</u>	15A NCAC 03K .0301
Readopt with Changes*	
<u>Mechanical Harvest of Clams from Public Bottom</u>	15A NCAC 03K .0302
Readopt with Changes*	
<u>Prohibited Taking of Clams</u>	15A NCAC 03K .0304
Readopt with Changes*	
<u>Clam Size and Harvest Limit Exemptions</u>	15A NCAC 03K .0305
Readopt with Changes*	
<u>Polluted Area Permit</u>	15A NCAC 03K .0401
Readopt with Changes*	
<u>Sea Scallops Size Limit and Tolerance</u>	15A NCAC 03K .0505
Readopt with Changes*	
<u>Marketing Scallops Taken from a Shellfish Lease or Franchise</u>	15A NCAC 03K .0507
Amend*	

The rules in Subchapter 3L concern shrimp (.0100); crab (.0200); and lobster (.0300).

<u>Shrimp Harvest Restrictions</u>	15A NCAC 03L .0101
Readopt with Changes*	
<u>Weekend Shrimping Prohibited</u>	15A NCAC 03L .0102
Readopt with Changes*	
<u>Prohibited Nets, Mesh Lengths, and Areas</u>	15A NCAC 03L .0103
Readopt with Changes*	
<u>Recreational Shrimp Limits</u>	15A NCAC 03L .0105
Readopt with Changes*	
<u>Crab Harvest Restrictions</u>	15A NCAC 03L .0201
Readopt with Changes*	
<u>Crab Trawling</u>	15A NCAC 03L .0202
Readopt with Changes*	
<u>Crab Dredging</u>	15A NCAC 03L .0203
Readopt with Changes*	
<u>Crab Pots</u>	15A NCAC 03L .0204
Readopt with Changes*	
<u>Crab Spawning Sanctuaries</u>	15A NCAC 03L .0205
Readopt with Changes*	

The rules in Subchapter 3M cover harvesting of finfish including general rules (.0100); striped bass (.0200); mackerel (.0300); menhaden and Atlantic herring (.0400); and other finfish (.0500).

<u>Striped Bass Requirements; General</u>	15A NCAC 03M .0201
Readopt with Changes*	
<u>Striped Bass Season, Size, and Harvest Limit: Internal Wa...</u>	15A NCAC 03M .0202
Readopt with Changes*	
<u>Striped Bass Season, Size, and Harvest Limit: Atlantic Ocean</u>	15A NCAC 03M .0204
Readopt with Changes*	
<u>Striped Bass; Prohibited Trawling</u>	15A NCAC 03M .0205
Readopt with Changes*	
<u>Flounder</u>	15A NCAC 03M .0503
Readopt with Changes*	

The rules in Subchapter 3N concern fish habitat areas.

<u>Prohibited Gear, Primary Nursery Areas</u>	15A NCAC 03N .0104
Readopt with Changes*	

<u>Prohibited Gear, Secondary Nursery Areas</u> Readopt with Changes*	15A NCAC 03N .0105
The rules in Subchapter 3O cover various licenses (.0100); leases and franchises (.0200); license appeal procedures (.0300); Standard Commercial Fishing License Eligibility Board (.0400); and licenses, leases and franchises (.0500).	
<u>Procedures and Requirements to Obtain Licenses, Endorsement...</u> Readopt with Changes*	15A NCAC 03O .0101
<u>Procedures and Requirements to Renew Licenses, Endorsement...</u> Readopt with Changes*	15A NCAC 03O .0102
<u>Auxiliary Vessels</u> Readopt with Changes*	15A NCAC 03O .0103
<u>Commercial Unloading of Fish</u> Readopt with Changes*	15A NCAC 03O .0104
<u>Requirements for Bait and Mussel Dealers</u> Readopt with Changes*	15A NCAC 03O .0105
<u>License Replacement and Fees</u> Readopt with Changes*	15A NCAC 03O .0107
<u>Assignment of Standard Commercial Fishing License</u> Readopt with Changes*	15A NCAC 03O .0109
<u>License Refunds</u> Readopt with Changes*	15A NCAC 03O .0110
<u>Surrender of Licenses</u> Readopt with Changes*	15A NCAC 03O .0111
<u>Ocean Fishing Pier Reporting Requirements</u> Readopt with Changes*	15A NCAC 03O .0113
<u>Suspension, Revocation and Reissuance of Licenses</u> Readopt with Changes*	15A NCAC 03O .0114
<u>Shellfish Lease Application Processing</u> Readopt with Changes*	15A NCAC 03O .0203
<u>Shellfish Lease Renewal</u> Readopt with Changes*	15A NCAC 03O .0205
<u>Shellfish Lease Application: Request for Review</u> Readopt with Changes*	15A NCAC 03O .0206
<u>Shellfish Lease and Franchise Production Reports</u> Readopt with Changes*	15A NCAC 03O .0207
<u>Termination Procedures for Shellfish Leases and Franchises</u> Readopt with Changes*	15A NCAC 03O .0208
<u>Transfer of Interest</u> Readopt with Changes*	15A NCAC 03O .0209
<u>Standards and Requirements for Franchises</u> Readopt with Changes*	15A NCAC 03O .0210
<u>Fishing Gear Requirements for Shellfish Leases and Franch...</u> Readopt with Changes*	15A NCAC 03O .0211
<u>Eligibility for Recreational Commercial Gear Licenses</u> Readopt with Changes*	15A NCAC 03O .0301
<u>Authorized Gear for Recreational Commercial Gear Licenses</u> Readopt with Changes*	15A NCAC 03O .0302
<u>Possession Limits for Recreational Commercial Gear Licenses</u> Readopt with Changes*	15A NCAC 03O .0303
<u>Standard Commercial Fishing License Eligibility Board</u> Readopt with Changes*	15A NCAC 03O .0401
<u>Standard Commercial Fishing License Eligibility Application...</u>	15A NCAC 03O .0402

Readopt with Changes*				
<u>Standard Commercial Fishing License Eligibility Board Review</u>	15A	NCAC	03O	.0403
Readopt with Changes*				
<u>Standard Commercial Fishing License Eligibility Criteria</u>	15A	NCAC	03O	.0404
Readopt with Changes*				
<u>Standard Commercial Fishing License Eligibility Pool Appl...</u>	15A	NCAC	03O	.0405
Readopt with Changes*				
<u>Standard Commercial Fishing License Eligibility Pool Cert...</u>	15A	NCAC	03O	.0406
Readopt with Changes*				
<u>General Permit Conditions</u>	15A	NCAC	03O	.0502
Readopt with Changes*				
<u>Suspension and Revocation of Permits</u>	15A	NCAC	03O	.0504
Readopt with Changes*				

The rules in Subchapter 03P concern administrative procedures (.0100); declaratory rules (.0200); and petitions for rulemaking (.0300).

<u>License, Permit, or Certificate Denial: Request for Review</u>	15A	NCAC	03P	.0101
Readopt with Changes*				
<u>Contested Case Hearing Procedures</u>	15A	NCAC	03P	.0102
Readopt with Changes*				
<u>Declaratory Rulings: Generally</u>	15A	NCAC	03P	.0201
Readopt with Changes*				
<u>Procedure for Requesting Declaratory Rulings</u>	15A	NCAC	03P	.0202
Readopt with Changes*				
<u>Disposition of Requests for Declaratory Ruling</u>	15A	NCAC	03P	.0203
Readopt with Changes*				
<u>Form and Contents of Petitions for Rulemaking</u>	15A	NCAC	03P	.0301
Readopt with Changes*				
<u>Review of Rulemaking Petitions by a Committee of the Comm...</u>	15A	NCAC	03P	.0302
Readopt with Changes*				
<u>Presentation of Rulemaking Petitions to the Commission</u>	15A	NCAC	03P	.0303
Readopt with Changes*				
<u>Recourse to Denial of the Petition</u>	15A	NCAC	03P	.0304
Readopt/Repeal*				

The rules in Subchapter 3R specify boundaries for various areas (.0100); and fishery management areas (.0200).

<u>Crab Spawning Sanctuaries</u>	15A	NCAC	03R	.0110
Amend*				
<u>Purse Seines Prohibited</u>	15A	NCAC	03R	.0111
Amend*				
<u>Crab Harvest Management Areas</u>	15A	NCAC	03R	.0118
Amend*				
<u>Ocean Artificial Reefs</u>	15A	NCAC	03R	.0119
Adopt*				

COASTAL RESOURCES COMMISSION

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); general permit to construct boat

ramps along estuarine and public trust shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); general permit to allow for temporary structures within the estuarine and ocean AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); emergency general permit, to be initiated at the discretion of the Secretary of the Department of Environment and Natural Resources for replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms, provided all replacement, reconstruction and maintenance excavation activities conform to all current standards (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

<u>Purpose</u>	15A	NCAC	07H	.1701
Readopt without Changes*				
<u>Approval Procedures</u>	15A	NCAC	07H	.1702
Readopt without Changes*				
<u>Permit Fee</u>	15A	NCAC	07H	.1703
Readopt without Changes*				
<u>General Conditions</u>	15A	NCAC	07H	.1704
Readopt without Changes*				
<u>Specific Conditions</u>	15A	NCAC	07H	.1705
Readopt without Changes*				
<u>Purpose</u>	15A	NCAC	07H	.1901
Readopt without Changes*				
<u>Approval Procedures</u>	15A	NCAC	07H	.1902
Readopt without Changes*				
<u>Permit Fee</u>	15A	NCAC	07H	.1903
Readopt without Changes*				
<u>General Conditions</u>	15A	NCAC	07H	.1904
Readopt without Changes*				
<u>Specific Conditions</u>	15A	NCAC	07H	.1905
Readopt without Changes*				
<u>Purpose</u>	15A	NCAC	07H	.2501
Readopt without Changes*				
<u>Approval Procedures</u>	15A	NCAC	07H	.2502
Readopt without Changes*				
<u>Permit Fee</u>	15A	NCAC	07H	.2503
Readopt without Changes*				
<u>General Conditions</u>	15A	NCAC	07H	.2504
Readopt without Changes*				
<u>Specific Conditions</u>	15A	NCAC	07H	.2505
Readopt without Changes*				

WILDLIFE RESOURCES COMMISSION

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10A cover general WRC practices and procedures including petitions for rulemaking (.0400); declaratory rulemaking (.0500); warning tickets (.1000); waivers (.1100); emergency powers (.1200); wildlife poacher reward fund (.1300); interstate wildlife violator compact (wcv) (.1400); and evidence (.1500).

<u>License Fees</u>	15A NCAC 10A .1601
Amend*	

The rules in Subchapter 10B are hunting and trapping rules and cover general hunting and wildlife provisions (.0100), hunting specific animals (.0200), trapping (.0300), and tagging furs (.0400).

<u>Importation of Wild Animals and Birds</u>	15A NCAC 10B .0101
Readopt with Changes*	

<u>Migratory Game Birds</u>	15A NCAC 10B .0105
Readopt with Changes*	

<u>Restrictions on Raccoon and Opossum Hunting</u>	15A NCAC 10B .0111
Readopt/Repeal*	

<u>Wildlife Collectors</u>	15A NCAC 10B .0119
Readopt with Changes*	

<u>Limitations on Certain Exotic Species</u>	15A NCAC 10B .0123
Readopt with Changes*	

<u>Deer (White Tailed)</u>	15A NCAC 10B .0203
Readopt with Changes*	

<u>Raccoon and Opossum</u>	15A NCAC 10B .0205
Readopt with Changes*	

<u>Squirrels</u>	15A NCAC 10B .0206
Amend*	

<u>Tagging Furs</u>	15A NCAC 10B .0402
Readopt with Changes*	

<u>Application for Tags</u>	15A NCAC 10B .0403
Readopt with Changes*	

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish (.0300); non-game fish (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600).

<u>Public Mountain Trout Waters</u>	15A NCAC 10C .0205
Amend*	

<u>Striped Bass</u>	15A NCAC 10C .0314
Amend*	

The rules in Subchapter 10D are game lands rules.

<u>General Regulations Regarding Use</u>	15A NCAC 10D .0102
Amend*	

<u>Bear Sanctuaries</u>	15A NCAC 10D .0106
Amend*	

The rules in Subchapter 10E concern fishing and boating access areas.

<u>Use of Areas Regulated</u>	15A NCAC 10E .0104
Amend*	

The rules in Subchapter 10H concern activities regulated by the Commission including controlled hunting preserves for domestically raised game birds (.0100), holding wildlife in captivity (.0300), commercial trout ponds (.0400), fish propagation (.0700), falconry (.0800), game bird propagators (.0900), taxidermy (.1000), furbearer propagation (.1100), controlled fox hunting preserves (.1200), reptiles and amphibians (.1300), wildlife captivity and rehabilitation (.1400), wildlife and alligator control agents (.1500).

<u>Commercial Take of Certain Turtles Prohibited</u> Amend*	15A	NCAC	10H	.1301
<u>Possession of Reptiles and Amphibians</u> Amend*	15A	NCAC	10H	.1302
<u>Captivity License for Rehabilitation</u> Amend*	15A	NCAC	10H	.1402

MARINE FISHERIES COMMISSION

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D).

The rules in Subchapter 18A deal with sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps (.3600); and private drinking water well sampling (.3800).

<u>Permits</u> Readopt with Changes*	15A	NCAC	18A	.0135
<u>Permits</u> Readopt with Changes*	15A	NCAC	18A	.0302
<u>Relaying Permits</u> Readopt/Repeal*	15A	NCAC	18A	.0303
<u>Depuration Harvesting Permits</u> Readopt/Repeal*	15A	NCAC	18A	.0304
<u>Dealer Tags</u> Readopt with Changes*	15A	NCAC	18A	.0425
<u>Shellfish Management Areas</u> Readopt/Repeal*	15A	NCAC	18A	.0912

MEDICAL BOARD

The rules in Subchapter 32B concern license to practice medicine including prescribing (.1000); general (.1300); resident's training license (.1400); faculty limited license (.1500); purpose license (.1600); other business (.1700); and expedited license for physician license (.2000).

<u>Application for Physician License</u> Amend*	21	NCAC	32B	.1303
<u>Reinstatement of Physician License</u> Amend*	21	NCAC	32B	.1350
<u>Application for Resident's Training License</u> Amend*	21	NCAC	32B	.1402

The rules in Subchapter 32S regulate physician assistants including physician assistant registration (.0200).

<u>Physician Supervision of Physician Assistants</u>	21	NCAC	32S	.0213
Amend*				

PHARMACY, BOARD OF

The rules in Chapter 46 cover organization of the board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections (.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); compounding (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

<u>Experience in Pharmacy and Pharmacy Internship</u>	21	NCAC	46	.1503
Amend*				
<u>North Carolina-Specific Education for Permit Applicants</u>	21	NCAC	46	.1606
Amend*				
<u>Out-Of-State Pharmacies</u>	21	NCAC	46	.1607
Amend*				
<u>Reinstatement of Licenses and Permits</u>	21	NCAC	46	.1612
Amend*				
<u>Extension of Period for Certain Members of the Armed Forces</u>	21	NCAC	46	.1613
Amend*				
<u>E-Profile Number Required for License, Permit, or Registration...</u>	21	NCAC	46	.1615
Amend*				